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FINANCIAL CONSUMERS ASSOCIATIONS

HEARING

BEFORE THE

COMMITTEE ON
BANKING, HOUSING, AND URBAN AFFAIRS
UNITED STATES SENATE

ONE HUNDREDTH CONGRESS

SECOND SESSION

ON

THE RECOGNITION THAT THERE IS VERY LITTLE SHOPPING FOR FINANCIAL SERVICES AND THAT THERE IS A TREMENDOUS DISPARITY IN THE CHARGES THAT ARE PAID BY PEOPLE WHO USE FINANCIAL SERVICES

DECEMBER 14, 1988

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FINANCIAL CONSUMERS ASSOCIATIONS

WEDNESDAY, DECEMBER 14, 1988

U.S. Senate,
Committee on Banking, Housing, and Urban Affairs,
Washington, DC.

The committee met at 10 a.m., in room SD-538 of the Dirksen Senate Office Building, Senator William Proxmire (chairman of the committee) presiding.

Present: Senator Proxmire.

OPENING REMARKS OF CHAIRMAN PROXMIRE

The Chairman. The committee will come to order.

This morning we are going to hold hearings on the financial consumers associations, which is an idea based on the recognition that there is very little shopping for financial services and that there is a tremendous disparity in the charges that are paid by people who use financial services, and of course we live in a credit economy. It is an economy that depends very heavily on securing credit, and it is most important that we do our best to see that consumers are as well-informed as possible.

We have this morning a number of witnesses who are advocates of a financial consumers association. Unfortunately, we invited the bankers associations to appear, and they didn't care to do so. But we are delighted to have the highly qualified witnesses that we have.

OPENING STATEMENT OF CHAIRMAN WILLIAM PROXMIRE

Good morning. Today, we take advantage of the relative quiet to address the issue of the financial consumers associations. This is a proposed, State-based advocacy group that would promote information about financial services, from banking to insurance to credit cards.

There's no doubt that far too many consumers are ill-informed about the various products being offered in the financial marketplace. A Federal Trade Commission study on life insurance shows that 80 percent of consumers do not shop, and only 2 percent shop effectively, using cost indices.

And witness the many consumer initiatives before this committee in the last several Congresses, including credit card interest rate disclosure and home equity loan disclosure.

To address this problem, several States—notably New York and Maryland—have considered creation of financial consumers associations. These would be nonprofit groups that would publish shoppers guides, including analyses, as well as warnings about unfair practices.

To establish the FCA, banks and thrifts in the State would be asked to include a notice in the statements they send to their clients informing them of the new consumer advocacy organization. The notice would outline the purpose, how it would be run, and solicit a $5 membership fee. Under the New York bill, these notices would be mailed four times a year.

What is the role of the Federal Government? States enjoy clear jurisdiction over State-chartered banks and thrifts. But the ability to require nationally chartered banks and thrifts to comply with the notice requirement is unclear. In the 100th Congress, this committee and the full Senate approved a measure to require participation by federally chartered institutions in any State FCA. This we did with no opposition.

There is yet another and potentially more controversial issue. In 1986, the Supreme Court ruled in the "Pacific" case that a California utility was not obliged to yield the extra space in its billing envelopes to a consumer advocacy group.

To be sure, the applicability of this case to the funding mechanism in the FCA will be decided by the courts. Naturally, though, it's important to know the constitutional standing of any legislation under consideration.

This morning, we have two panels with witnesses who can inform us about the New York and Maryland initiatives as well as other aspects of financial consumers associations. I am grateful to all of you for coming.

The first panel will come forward, if they would, at this point.

Jonathan Brown, of Bank Watch; David Fontaine, president of the Maryland Citizens Action Coalition, Baltimore, MD; and of course Ralph Nader, the Center for Study of Responsive Law.

Is Mr. Fontaine here?

Perhaps he will be coming along. He will be coming along shortly.

All right, Mr. Brown, why don't you go ahead, and then I will have some questions?

Mr. BROWN. Thank you, Mr. Chairman, for holding these hearings.

I wonder, is it possible if Mr. Nader could make a brief introduction.

The CHAIRMAN. Fine. You bet your life. Indeed. This is listed alphabetically—Brown, Fontaine, and Nader. But we are glad to reverse it and have Mr. Nader go first.

STATEMENT OF RALPH NADER, CENTER FOR STUDY OF RESPONSIVE LAW, WASHINGTON, DC

Mr. NADER. Thank you, Mr. Chairman. Thank you for holding these hearings, probably the last of a long list of hearings which you have conducted and sat through over the years and one that I think will be seen in the future as containing the core of a very important proposal which we have developed in recent years to establish a statewide financial consumers association.

In all of the discussion about the rapid development of financial institutions, the overlapping of different kinds of financial institutions where once they were restricted by legal boundaries, there is very little discussion about the importance to increase the awareness, the information flow, the market specific data for consumers of banking, insurance, and brokerage services.

It almost seems as if the decisionmakers in this country believe that only those who are involved in these institutions, either in a business or government capacity, have enough information to make the decisions regarding policy in marketplace services.

This of course is contrary to a much more fundamental understanding in our country that markets and public policy must reflect, if they are to be democratic and just, the informed involvement of citizens vis-a-vis their government and consumers vis-a-vis banks, insurance companies, and brokerage services.

STATE LEVEL FINANCIAL CONSUMERS ASSOCIATIONS

The establishment of State level financial consumers associations, as envisioned in legislation introduced in the Maryland and New York Legislatures, would be a creative response to the mounting information and representation needs of consumers in an era of financial deregulation and technological change. Such State legislation seeks to establish an institution, chartered by the State, but private in its operation, that will enhance the collective capacity of consumers to help themselves and to project their sense of what is needed for an improved marketplace and improved public policymaking.

This is an approach to consumer protection that holds great promise in the financial service area. One must know that these financial consumers associations would be nonprofit private groups chartered by the State which do not cost the taxpayer anything, which rely on voluntary participation and the payment of annual dues by the consumers who are interested in joining such an organization, which would have their own boards of directors elected by the dues paying members, and the staff to collect information and to engage in a variety of activities that will advance consumer interests right across the board.

The key to the financial consumers association is the legal right to insert in the bank deposit statement and the insurance billing statement and the statements received from brokerage firms a solicitation inviting the customers to join their own financial consumers association. It would be a solicitation something like this—a postage paid envelope with a message to the consumer and a little form to fill out. So this would fall out of your insurance premium bill with a clear designation that it is not from the insurance company; it would fall out of your bank deposit statement periodically and out of your brokerage statements.

The **Chairman**. I would like to pick that up if you have a copy of it so we can include it in the record.

Mr. **Nader**. All right. Thank you, Mr. Chairman.

The statutory charter requirements, as mentioned in our testimony, Jonathan Brown's and my testimony, involve rigorous democratic procedures, affirmative duties for the information and advocacy needs of low and moderate income and minority persons and also, of course, the confinement of its activities to financial service issues.

Such an association would be politically independent, controlled by its members, and since it must raise its own funds it will operate with a strong incentive to provide information that has value to consumers.

Finally, serving as a consumer controlled information system, a financial consumers association will be in a good position to take advantage of new computer and communications technology, just as the financial service industry has done.

Bob Hunter, of the National Insurance Consumer Organization, may discuss how data processing through computerized information systems can avail consumers of insurance at the State level.

The great need for these financial consumers associations comes indeed from the financial deregulation, the technological change, and the increasingly complex financial service products that have greatly expanded the amount of information which consumers must possess if they are to make wise decisions. As financial service products become more complex, the task of comparison shopping has become more difficult.

For example, you have the increasing number of product terms, hidden fees, ancillary charges, while many products such as adjustable rate mortgage and life insurance products pose difficult analytic problems for consumers who want to comparison shop.

Professor Joe Bell has told me that it would take almost a knowledge of elementary calculus in order to compare life insurance policies, and of course this involves the production of more data than is provided by the insurance companies and the banks.

At the same time, the financial institutions have become more aggressive in marketing their products, and their marketing efforts are frequently designed to obscure the underlying cost of the financial service and to create obstacles to comparison shopping and therefore blunt price competition.

Economists refer to these strategies as reducing the price elasticity of consumer demand or monopolistic competition. Prime examples are hidden fees and charges, bundling of services into a single package, relationship banking, and image advertising.

The greater information demands that today's financial service environment imposes on consumers must be viewed against a backdrop of traditional consumer information problems in the financial service area.

CONSUMERS DON'T SHOP FOR FINANCIAL SERVICES

Extensive research dating back to the studies of the National Commission on Consumer Credit has demonstrated repeatedly that the vast majority of consumers do not shop for most financial services. For example, a 1970 household survey found that 75 percent of consumers shopped for products, but only 20 percent of consumers who purchased with credit shopped for credit.

This citation is in our testimony which, by the way, we will submit in its entirety, Mr. Chairman.

The Federal Reserve Board has conducted two comprehensive studies of consumer shopping behavior in credit markets. The 1977 FRB credit survey found that only 25 percent of consumer installment loan, borrowers shopped for credit, while the 1983 consumer finance survey found that only 29 percent of such borrowers comparison shopped.

The failure of consumers to comparison shop is a failure in the lack of ease in comparison shopping. The failure of consumers to do this gives financial services providers the market power to raise prices, even in markets with a supply structure that appears to be competitive.

In recent years a number of banking industry officials have indicated to Jon Brown and Bank Watch their surprise at the ability of banking institutions to raise service charges on deposit accounts and interest rates on credit cards without driving away any customers.

This is a tell-tale sign of uninformed consumers, of underpowered consumers, and of a proliferation of complex offerings which merge into the phenomenon called by Professor Chamberlain of Harvard years ago monopolistic competition.

On the other hand, with respect to home purchase mortgages where the cost of credit is tremendous and realtors often possess comparative price information, there is more consumer shopping and consumer demand is more price elastic.

By far the most dramatic failure of consumers to comparison shop occurs in insurance markets. This reflects the fact that many insurance products, especially life insurance, are complex and poorly understood by consumers and also the fact that insurance agents have a perverse incentive to push high priced policies on consumers in order to maximize commissions.

A recent Federal Trade Commission study reports that 80 percent of consumers do not shop for life insurance and 18 percent of consumers shop ineffectively without the use of cost indices, while only 2 percent of consumers shop with cost indices.

The FTC staff report, "Life Insurance Products and Consumer Information, 1985," one of the few FTC reports of any use in the last 8 years, documents these observations. The FTC study concluded:

> Survey evidence strongly suggests that buyers are not sophisticated, that they know little about the most basic savings features of their policies, such as cash surrender values and dividends actually paid. This suggests there is a real information based problem in this market that inhibits effective price competition and can lead to a lemon-like phenomenon.

There is also the lack of power, Mr. Chairman, to do anything about it on behalf of consumers. For example, here in Washington, DC banks are charging anywhere from $20 to $22 for a bounced check, and then they charge the victim of a bounced check several dollars. If there were financial consumers associations that consumers could talk to and could have champion their causes, the connection of information and power would produce a more competitive market operation and better comparison shopping.

There is also a special need of information for low and moderate income persons, minorities, and others, where the failure to comparison shop is particularly acute. Indeed, minorities and persons who have previously been denied credit are often reluctant to shop for credit because of fear of encountering rejection.

A recent analysis of the data from the Federal Reserve Board's 1983 survey of consumer finances found that education level, previous credit experience, and household status were key determinants of consumer shopping behavior in the consumer loan market.

I would like to turn to the shoppers guides issues for a moment, on page 7 of our testimony.

A key function of a financial consumers association would be to publish and disseminate to consumers comparative price information for various financial services products offered in the local financial market. Comparative price information could be disseminated in the form of shoppers guides and perhaps even a computerized shopping service.

These shoppers guides could be tailored to address the special information needs of different groups of consumers, such as the elderly, minorities, low and moderate income persons and greatly increase the efficiency of consumer shopping efforts.

We remember that section 618 of the Truth in Lending Simplification and Reform Act of 1980 directed the Federal Reserve Board to undertake demonstration projects to assess the impact of published shoppers guides on consumer credit markets.

Pursuant to this requirement, the FRB published shoppers guides for consumer credit in three test markets, Rochester, NY, Akron, OH, and Sacramento, CA, once each month for a 1-year period. That is May 1984 through May 1985.

The guides, which were published in local newspapers and distributed to community organizations, listed the interest rates quoted by various local lenders for first mortgage loans, second mortgage loans, new car loans, and personal loans.

The Federal Reserve Board found that the publication of the shoppers guides had increased competition in the mortgage loan and auto loan markets, but not the personal loan markets.

In conclusion, the report stated:

> Findings presented in this subsection provide support for the theoretical predictions that widespread dissemination of information on comparative credit prices will reduce the average level and dispersion of prices in the market. Specifically, the comparative price programs appear to have enhanced competition in the mortgage and automobile credit markets.

Obviously, a computerized shopping service is very, very convenient to consumers, and it would be very effective for certain lines of insurance.

There are examples of shoppers charts which are currently published in newspapers for a limited number of financial service products, especially mortgage loans and, to a lesser extent, other consumer loans and deposit accounts. The range of financial services covered here is quite narrow, and the number of financial service providers included in shoppers charts is often limited.

For example, charts on auto loans frequently omit credit unions, auto company finance subsidiaries, and other financing options offered by auto dealers. Most importantly, the charts overlook financial services of interest to many persons of modest means, such as small balance deposit accounts, check cashing services, and small personal loans. They give only limited attention to financial service providers aggressively marketing high cost services to low and moderate income persons; in particular, certain finance companies and mortgage companies.

INFORMATION IS OFTEN CONFUSING

Turning to the in-depth information and advice section, in addition to the rate and term information that can be displayed on comparative charts, consumers need more in-depth information and advice on financial services. Many of these services have so many terms that it is not feasible to display all of their terms in a comparative shoppers chart format.

As financial products become more intricate, consumers not only need information on more terms for each product, but the comparison of products involves far more complex judgments. Even with the information, the increasing array of nonstandardized terms and features makes it difficult for the average consumer to compare financial service products.

Further, many financial service products which appear to be very different are in effect functionally equivalent. In order to know whether products are functionally equivalent and warrant comparison, the consumer needs a far more sophisticated understanding of the underlying financial instrument than was needed in more traditional financial markets where products were more segmented and standardized.

Finally, as financial service products become more complex, the judgment as to whether a particular product is well-suited to specific financial needs of the consumer requires increasing sophistication.

The CHAIRMAN. Could you wind up in about a minute?

Mr. NADER. Yes.

Consumer alerts are needed. Consumers need warnings of unfair financial practices as they began to develop. The response to financial regulatory agencies at the State and Federal levels is manifestly inadequate. The financial consumers associations would fill this gap.

There are also representational gaps at the State level, which are discussed in our testimony, which are very amenable to the staff advocacy and information flow of the financial consumers associations, which would gradually develop a greater and greater community intelligence among greater and greater numbers of consumers of financial services.

Indeed, a 1986 study of the California Department of Insurance by Consumers Union found: "The Department of Insurance had done virtually nothing to protect the public against unfair practices by the insurance industry."

Last, the financial consumers associations will undertake representation of consumer interests in the financial service area before regulatory agencies and legislative bodies. Too often the consumer seat is empty before legislative and regulatory hearings on issues critical to matters of financial concentration, the lack of adequate competition, the lack of credit for low income consumers and small businesses and the like.

In conclusion, the financial service information gathered and analyzed by financial consumers associations from point of sale information all the way to State and national policymaking will enrich the entire national dialog on this rapidly developing situation, will increase the provision of services in a more efficient and competitive marketplace and will support good legislators and good regulators who at the present time find themselves almost entirely surrounded by the financial sellers' points of view and advocacy power.

I would like to reserve just a few minutes—Mr. Chairman, as a personal point of privilege—after our panel is finished.

[The complete prepared statement of Ralph Nader and Jonathan Brown follows:]

TESTIMONY OF RALPH NADER
AND JONATHAN BROWN
BEFORE THE
COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS
UNITED STATES SENATE

DECEMBER 14, 1988

Mr. Chairman and members of the Committee, we apreciate the opportunity to present our views on the establishment of financial consumers' associations at the state level.

The creation of state level financial consumers' associations, as envisioned in legislation introduced in the Maryland and New York legislatures, would be a creative response to the mounting information and representation needs of consumers in an era of financial deregulation and technological change. Such state legislation seeks to establish an institution that will enhance the collective capacity of consumers to help themselves, an approach to consumer protection that holds great promise in the financial service area.

A financial consumers' association will be able to address consumer information needs in a flexible, non-regulatory manner that minimizes the need to add continuously to the many layers of consumer protection regulation that govern the provision of financial service products. Moreover, a financial consumers' association will be a unique public purpose institution subject to a set of statutory charter requirements that impose (1) rigorous democratic procedures, (2) an affirmative duty to address the information and advocacy needs of low and moderate income and minority persons, and (3) confine its activities to financial service issues. Yet, at the same time, a fianancial consumers' association will be politically independent, democratically

controlled by its members; and, since it must raise its own funds, it will operate with a strong incentive to provide information that has value to consumers. Finally, serving as a consumer controlled information system, a financial consumres' association will be in a good position to take advantage of new computer and communications technology, just as the financial service industry has done.

Financial Deregulation and Technological Change: Mounting Consumer Information Needs

Financial deregulation and technological change have unleashed a blizzard of new and often complex financial service products and greatly expanded the amount of information which consumers must possess if they are to make wise decisions.

As financial service products have become more complex, the task of comparison shopping has become more difficult. In particular, the number of product terms, hidden fees, and ancillary charges has increased, while many products, such as adjustable rate mortgages and life insurance products, pose difficult analytical problems for consumers who want to comparison shop.

Financial institutions have become far more aggressive in marketing their products and their marketing efforts are frequently designed to obscure the underlying cost of the financial service, create obstacles to comparison shopping, and thereby blunt price competition. Economists refer to this strategy as reducing the price elasticity of consumer demand or monopolistic competition. Prime examples are hidden fees and charges, bundling of services into a single package, relationship banking, and image advertising.

Traditional Information Problems

The greater information needs that today's financial service environment imposes on consumers must be viewed against the backdrop of traditional consumer information problems in the financial service area. Extensive research, dating back to the studies of the National Commission on Consumer Credit, has demonstrated repeatedly that the vast majority of consumers do not shop for most financial services. For example, a 1970 household survey found that 75% of consumers shopped for products, but only 20% of consumers who purchased with credit shopped for credit. Day and Brandt, Technical Studies of the National Commission on Consumer Finance (1973). The Federal Reserve Board (FRB) has conducted two comprehensive studies of consumer shopping behavior in consumer credit markets. The FRB's 1977 Consumer Credit Survey found that only 25% of consumer installment loan borrowers shopped for credir, while the 1977 Survey of Consumer Finances found that only 29% of such borrowers comparison shopped.

The failure of consumers to comparison shop gives financial service providers market power to raise prices, even in markets with a supply structure that appears to be competitive. In recent years a number of banking industry officials have indicated to BankWatch their surprise at the ability of of banking institution to raise service charges on deposit accounts and interest rates and fees on credit cards without driving away customers. On the other hand, with respect to home purchase mortgages, where the cost of credit is tremendous and realtors often possess comparative price information, there is more consumer

shopping and consumer demand is more price elastic.

By far the most dramatic failure of consumers to comparison shop occurs in insurance markets. This reflects the fact that many insurance products, especially life insurance, are complex and poorly understood by consumers, and also the fact that insurance agents have a perverse incentive to push high price policies on consumers in order to maximize commisions. A recent Federal Trade Commission study reports that 80% of consumers do not shop for life insurance and 18% of consumers shop ineffectivley (without the use of cost indexes), while only 2% of consumers shop with cost indexes. FTC Staff Report, Life Insurance Products and Consumer Inforrmation, (1985). The FTC study concluded:

> Survey evidence strongly suggests that buyers are not sophisticated, that they know little about the most basic savings features of their policies such as cash surrender values and dividends actually paid. This suggests that there is a real information based problem in this market that inhibits effective price competition and can lead to "lemons"-like phenomena.

Special Information Problems for Low and Moderate Income Persons, Minorities, and Others

The failure to comparison shop and the lack of understanding of financial service options is particularly acute among certain segments of the population: especially the less educated, minorities, persons who have previously been denied credit, single parents, and more generally low and moderate income persons. Minorities and persons who have previously been denied credit are often reluctant to shop for credit because of fear of encountering rejection.

A recent analysis of the data from the FRB's 1983 Survey of Consumer Finances found that education level, previous credit experience, and household status were key determinants of consumer shopping behavior in the consumer loan market. Sullivan, Credit Research Center, Working Paper #54, Purdue University (1987). Only 16% of consumers without a high school diploma and 21% of consumers with a high school diploma but no college experience engaged in comparison shopping, while 52% of consumers with a college degree or more education shopped. Only 12% of single parents comparison shopped, compared to 43% of single persons under 45 years in age shopped. Only 13% of consumers who had been turned down for credit in the past few years engaged in shopping, while 31% of consumers who had not experienced credit rejection shopped. Reflecting the strong correlation between income level and the key shopping determinants such as education and household status, only 15% of households in the lowest income quintile shopped.

Many high cost financial service providers, especially finance companies, mortgage companies, and some insurance firms, have concentrated their marketing efforts on categories of consumers who generally do not shop. These non-shoppers -- the less educated, minorities, single parents, person fearing credit rejection -- are frequently an easy mark because they are often unaware that they could qualify for credit or insurance products from lower cost providers, such as banks or credit unions. For example, an analysis of a 1970 FRB survey of consumer borrowers found that 68% of the borrowers from finance companies (high cost providers) could have qualified for credit from banks (low cost providers). Boczar, 33 Journal of Finance 245

(1978). One of the strongest findings of this study was that minority persons are more likely than others to obtain credit from high cost providers (finance companies as opposed to banks), and this relationship held even after controlling for other characteristics, such as income and education level.

A more recent study of borrower characteristics provides additional evidence that borrowers from high cost firms are segmented more by their own reluctance to shop -- which may reflect subtle forms of discrimination -- than by any objective measures of credit risk. Sullivan, 36 Journal of Economics and Business 141 (1984). Using 1979 data on borrowers from Lousianna, a state that did not have binding usury ceilings, the study found that the credit scored of finance company borrowers were not significantly different from those of bank borrowers. Yet, finance company borrowers paid an average intetest rate of 31%, while bank borrowers paid an average rate of only 15%.

The FTC's 1985 report on life insurance and consumer information found similar evidence of the ability of financial service firms to price discriminate on the basis of consumer knowledge.

> [Studies] have stressed the incentives on the part of [insurance] companies to price discriminate on the basis of consumer elasticity of demand. The latter is in part a function of knowledge, so the better informed will be offered more quality per unit of price than the less informed. Companies are able to discriminate because buyers don't shop and because company sales agents eithet target particular groups with a policy tailored for each group, or because agents can offer a variety of policies and will recommend one based on an individual assessment of the client.

Dissemination of Comparative Price Information through Shoppers' Guides

A key function of a financial consumers' association would be to publish and disseminate to consumers comparative price information for various financial service products offered in local financial markets. Comparative price information could be disseminated in the form of shoppers' guides, informational brochures, and perhaps even a computerized shopping service. Shoppers' guides and informational brochures could be tailored to address the special information needs of different groups of consumers, such as the elderly, minorities, and low and moderate income persons.

A computerized shopping service might be very effective for certain lines of insurance. To access such a system a consumer might submit to the financial consumers' association a request form that identified the type of insurance sought and the consumer's insurance characteristics. The association would then enter this information into a computer system that contained the appropriate rate and term information for each insurer operating within the state. With an appropriate program, the computer could then identify the lowest cost insurance providers for the particular consumer.

Shoppers' guides reduce the search costs associated with comparison shopping, thereby greatly increasing the efficiency of consumer shopping efforts. Additionally, by dramatizing for consumers the wide variation in prices, shoppers' guides can encourage more consumers to engage in shopping.

Section 618 of the Truth-in-Lending Simplification and Reform Act of 1980 directed the FRB to undertake demonstation projects to assess the impact of publishing shoppers' guides on consumer credit markets. Pursuant to this requirement, the FRB published shoppers' guides for consumer credit in three test markets (Rochester NY; Akron OH; Sacrament CA) once each month for a one year period (May 1884 through May 1985). The guides, which were published in local newspapers and distributed to community organizations, listed the interest rates (APR) quoted by various local lenders for 1st mortgage loans, 2nd mortgage loans, new car loans, and personal loans. The FRB found that the publication of the shoppers' guides had increased competion in the mortgage loan and auto loan markets, but not the personal loan market. FRB, Annual Percentage Rate Demonstration Project (1987). The FRB's overall assessment was as follows:

> In conclusion, findings presented in this subsection provide support fpr the theoretical predictions that widespread dissemination of information on comparative credit prices will reduce the average level and the dispersion of prices in a market. Specifically, the comparative price programs appear to have enhanced competition in the mortgage and automobile credit markets.

The **Chairman**. Mr. Brown.

STATEMENT OF JONATHAN BROWN, BANK WATCH, WASHINGTON, DC

Mr. **Brown**. Thank you, Mr. Chairman. I would like to emphasize a few themes which I believe summarize our testimony without going into the details and the mechanics of it.

The **Chairman**. Your testimony will be printed in full in the record.

Mr. **Brown**. A question that is frequently asked of proponents of the financial consumers associations idea is: Why have this institution in the financial service area, as opposed to other sectors of the economy? I think that is a very good question. It really forces us to examine what purposes we seek to accomplish with the financial consumers associations.

There is no single response to that question, either. Rather, there are several.

THE NEED FOR PROPOSED ASSOCIATION

The first response is that there is something inherent in the nature of financial service products that warrants an information advisor or intermediary between the financial service provider and the consumer, to provide information to the consumer. The reason for this is that financial service products are not as easily regulated in terms of their content or their quality as, say, we regulate food or drug products. There are no technical specifications which no consumer can be expected to understand. Rather, the consumer has to make judgments for himself or herself. That requires sophistication and there is no way to get around that. So you are back to the primacy of making sure that the consumer is well-informed as the best sefeguard.

Second, even though many financial products seem mundane, there is an element of volatility and instability, and they can in some circumstances get out of control and injure individual consumers very quickly. We see this in the foreclosure area. We see all kinds of problems in the insurance area.

And, third, looking beyond the individual consumer, looking to the role of financial markets as a whole, it has become increasingly clear through your endeavors in the last several years and those of others in Congress that financial markets have to be regulated. They have many inherently unstable characteristics. I think that as long as that process is left just to the clash of the different financial service sectors, all too often the outcome depends on luck. So there is a need for a stronger, more sophisticated public voice. Although financial consumers associations may initially focus on the daily activities of the consumer, I think ultimately they would develop more expertise and begin to have a presence in the debate on the broader structural questions.

Now, I would like to emphasize certain aspects of the financial consumers associations concept because there is oftentimes a lot of confusion about its nature. Just exactly what is the nature of the association?

I think it is a subtle concept. The association, as it has been proposed in the New York and Maryland legislation, is very much a hybrid institution. It combines a number of functions involving information and advocacy. I think there is an advantage to that.

It is part private and part public. In that sense, it is not just another nonprofit organization.

It is given the benefit of the insert requirement. In return there are public obligations imposed on it and, in particular, very rigorous democratic safeguards to ensure accountability and an obligation to take affirmative measures on behalf of low and moderate income people.

And, there is another important aspect to it, and that is that it is an institution which is not funded publicly, even though it is a quasi-public institution. This means that it will be subject to market discipline, because it has to raise its own funds by providing services of value. I would venture to say that in some sense it would probably be subject to more market discipline than many members of the banking industry have been.

There is another aspect to it, and that is that its primary mission is providing information or in a sense, managing the flow of information on behalf of consumers. I think that has a lot of implications that need to be thought through.

We have to realize that information on financial service products is in many ways a public good, which is underproduced in the marketplace. Individual information vendors have a hard time recapturing the value of the product, and therefore the private market does not produce as much information as is desirable. Public intervention to enhance the flow of information would result in a more beneficial market.

The third theme that I would emphasize is that in the debate on financial restructuring. There has been a lot of emphasis on the benefits that would accrue from additional entry into different financial markets, looking at entry on the supply side. I don't think enough attention has been paid to ways to improve the efficiency of the demand side; that is, to increase the bargaining power of consumers by making them better informed.

My fourth point is that it is important to emphasize that a financial consumers association would be in a good position to take advantage of the new information technologies, computer technologies, data process technologies and that the banking industry has used in the last 5 to 10 years.

USE OF NEW TECHNOLOGY

I think that is a very important facet. A financial consumers association could undertake computerized shopping programs on behalf of its members. It could get access to, for instance, the home mortgage disclosure data base, which the Federal agencies have, and take that information and translate it into shoppers guides that could ultimately reach individual consumers, the goal that was hoped for with the enactment of the Home Mortgage Disclosure Act back in 1975.

It is interesting if you contemplate that its main mission is to put more information in the marketplace so that consumers can shop more effectively, more information on the social responsiveness of banking institutions so that banks with good records can be rewarded—that is not an adversarial relationship that would necessarily evolve between the financial consumers associations and the banking industry. In fact, I think it would be a positive relationship with firms that wanted to compete efficiently on the basis of price and a negative relationship with those who are interested in trying to make money by confusing consumers.

There is another aspect of the association which we find very attractive, and that is its reliance on consumer initiative. The alternative approach, relying on the regulators to provide information to consumers in the form of shoppers guides and brochures, both State and Federal regulators, is not very realistic because the regulators are clearly overburdened with their safety and soundness responsibilities and have a hard enough time just implementing some of the basic consumer protection laws, let alone venturing into the field of information dissemination.

The last point I would make is to stress the importance of the insert requirement to the viability of financial consumers associations. All too often this is viewed, particularly by the industry, as another tactic to harass the banks. Let's make the banks do this, make the banks do that.

It is important to realize that if an association is going to build a membership base that will generate revenues to allow it to have the staff to undertake these activities, then it has to have a very efficient way of soliciting members.

The cost of direct mail is very high. Unfortunately, I don't have the current figures, but I can give you some calculations that will indicate the problem. There are citizens utility boards in Wisconsin and Illinois which at various times during the 1980's relied on inserts to solicit membership. Their experience was that they would get a positive response rate of about 1 percent to .5 percent on their mailings to individual consumers. They also found, like many other membership organizations, that they would lose about half of their membership every year. There was just this constant turnover of membership, which meant that you had to go out and resolicit and get positive responses from a number of consumers equal to half of your membership every year just to break even in terms of holding your membership.

Now, if you want a membership base of 200,000 members, that means you are going to be losing about 100,000 every year. You are going to have to replace them, and if the response rate on the mailing is only 1 percent, you can calculate that you have to send out about 10 million mailings every year, a mailing to 10 million households. If you do it as envisioned in the financial consumers associations legislation, four times a year, that means that you have to reach 2.5 million households.

I think you can see—once you are into the cost of direct mailing—how heavily that would eat into the association's revenues and what a really huge deadweight loss it would be for the members of the association.

That is why we assign a very high priority to the insert requirement, which gives the solicitation process a free ride in the sense that it is piggybacked on the mailings that already go out from banking institutions.

And finally, my last comment on the association is that it also has great value because it is based at the State and local level and therefore will have a presence in local financial service markets. It will have a very good understanding of what is happening to individual consumers and what products are being introduced.

And I would also like to thank the chairman for his efforts on behalf of a provision that was passed by the Senate last March as part of the Glass-Steagall legislation, which would have overridden any efforts on the part of federally chartered banking institutions to assert preemption claims against insert requirements established under State law. We hope that that provision will be acted upon favorably in the next Congress.

Mr. Chairman, I would like to request that we be able to submit additional information for the record early next week from two organizations. USPIRG is compiling a summary of the information dissemination activities of PIRG's over the last several years, and there is evidence about the value of consumer initiatives on the one hand and the limitations of groups that don't specialize in the financial service area——

The **Chairman**. Without objection, that will be incorporated.

Mr. **Brown** [continuing]. And a brief survey of the existence or lack thereof of input from consumers in the legislative process at the State level on financial service issues.

The **Chairman**. Chairman Gonzalez is in the room, the new chairman of the Banking Committee. He wanted to pass on his regards, particularly to Mr. Nader, for whom he has admiration and respect. He wanted to say that he had to leave, unfortunately.

We are looking forward to—I am sure—I will be leaving, but I am sure the next chairman will be looking forward to working with the chairman of the House committee.

Our next witness is Jeanelle Cousino, director of the Maryland Citizens Action Coalition, and we are delighted to have you.

STATEMENT JEANELLE COUSINO, DIRECTOR, MARYLAND CITIZENS ACTION COALITION, BALTIMORE, MD

Ms. **Cousino**. Thank you very much. I am the last minute pinch-hitter for Dave Fontaine, who is the president of our organization.

We are a statewide organization that have been working on consumer product issues for a little while, but recently banking, and just to give you a backdrop, actually I think Mr. Brown was being polite when he was talking about gridlock in terms of consumers and banking, in terms of information and being able to actually access adequately the system.

I would say in Maryland the backdrop was such that we had a collapse in 1985—it wasn't that long ago—that we had headlines every day about State chairman of S&L's having runs on their bank and finding out that they were not insured and S&L depositors not being able to get their money, and that is of course kind of the precursor for why consumers who are angry, frustrated feeling like they really could not trust the regulators and the elected officials that had put certain persons supposedly in charge of watching the institutions that held their money and felt that they had to seek a new approach to protect the consumer, and this one could only work if it had citizen control, not regulators who tended to only listen to the industry that they were regulating, and would actually have a base that could be self-sustaining and not one that had to keep going back to the State legislature and begging for money.

Under that circumstance, in 1986 the broad-based coalition, of which I was helpful in getting together with the Baltimore NAACP, a student organization at the University of Maryland, Maryland PERC, several labor organizations, several church and senior groups, as well as the S&L Depositors Association, which had over 100,000 people in the situation where they couldn't get their money, for whatever reason—college loans, retirement income supplements, or church, that actually had raised money to build a new church.

They had no access to that and still today do not have total access to their funds. They wanted a difference, they wanted things to change, and so a piece of legislation—I cannot remember the number right now, but it was called the Maryland Financial Consumer Association. Its sponsors were then Speaker of the House Ben Cardin, who is now a Congressman from Maryland's District 3, and also Cass Taylor, Vice Chairman of the House Economic Matters Committee, two very powerful people in the Maryland Legislature, but it failed by one vote to get the needed number of votes to get out of committee and onto the floor. But the debate was hot and heavy, as you can imagine, and the institutions were pointing fingers everywhere but at themselves.

They had primarily discussed that there were all kinds of operational problems and, in effect, there were better institutions within government to do that. But the people had lost faith in the institution and in the regulations who were supposed to have watched them because as the headlines unfolded it was quite clear they weren't doing their job or, if they even knew about it, they were looking the other way.

There is no guarantee that a consumer-controlled, citizen-controlled and funded organization could in fact have stopped that situation from happening, but I don't think anyone believes that without a certain major change in the way things operate we won't see any real change.

COMMUNITY REINVESTMENT

Our organization has also worked on community reinvestment issues and in fact contracted with the Hopkins Policy Institute, specifically Dr. Ann Schlay, who has done a number of studies in communities like Chicago, Washington, and Baltimore looking at the financial performance of the institutions that have to comply with community reinvestment, and we found that the banks generally were making it much more difficult for blacks to receive mortgages, and we have compiled volumes of information now that we have deposited in libraries.

But it is not like it is easily available to the public. The functions of the financial consumers associations would in fact enhance the ability of people to know under social criteria that they feel important what might be the best place to put their money and to interact with those institutions.

The banks of course always denigrate those studies, saying that that is not the total picture, that we have no idea how many people actually asked for loans, it is only the number of loans that were given. So the information available to us is still somewhat sketchy.

But the Home Mortgage Disclosure Act has added to the information that we have to make decisions and to advocate on behalf of the community in general, and we can only hope that with the new information that the HMDA will require from mortgage companies that we will have a better picture.

But that information needs to get out to many more people, and it cannot be done under the very limited resources that our organization has and, for that matter, all of the various consumer groups who tend to look at it as a part of their advocacy effort but certainly not their primary function.

This summer I had a chance to speak to the Maryland Bankers Association. They have a summer school for their medlevel managers, and the topic was community reinvestment. They personally did not believe that they had any problem to look at in Maryland and were somewhat aggrieved to think that a consumer would think that they weren't doing their job properly.

But the numbers speak for themselves, and the fact is the number don't get out to enough people.

I see the financial consumers associations being one more way that we have institutions that we have told under the right to do business in our country they have to follow certain rules and regulations without having—and I wouldn't call it harassment, but I would say it is another prodding, another nudging that says the law is there and you have to follow it.

The banks would say it is harassment, but they of course believe anyone telling them to do anything is harassment, including our government.

With regulators basically extremely unempowered, our Banking Commissioner, who has the responsibility of implementing the interestate banking law, is supposed to look at a number of criteria before allowing a bank into our State.

Two issues that we certainly are caring about is small business lending proponents as well as community reinvestment activities.

The only time that that Bank Commissioner's Board has ever discussed community reinvestment was when we challenged NCNB's entry into the market in the Maryland area, and the Board very specifically said they were surprised because they had never talked about community reinvestment before.

The information available to the people who are charged with the decisions, the people who are regulators and, for that matter, the rest of us who want to have some say about how financial services are available to the public, is not widely spread and is certainly not adequate to deal with the very difficult problems that we have facing our community

I will end up by saying that all of the functions that have already been discussed in terms of the financial consumers associations we dearly need them in Maryland. The biggest problem we had with getting the legislation out of committee—and as we said, we only missed it by one vote. We had a plurality. We had 12 votes in favor and 9 votes opposed, and you would think that that is enough. Well, it takes 13 to get it out of committee. So the biggest problem was the fact that it would only apply to State banks because the State government would not be able to tell national banks what to do in terms of putting an insert in their mailings to their customers.

That provision alone raised so many doubts in the legislators' minds that it became unworkable. It wouldn't have worked to have it only be State chartered S&L's and State banks, even though there are a considerable number of them in Maryland. It would not have been enough because most people of course are customers of the larger institutions.

So with that provision we basically ran into a very strong brick wall, and until your committee worked on the preemption override we really did not see a window of opportunity to do it again in Maryland, and I know it didn't necessarily prevail in the end that is still one of the biggest stumbling blocks for us to be able to have one of these actually happen in Maryland, where our consumers are demanding change.

The CHAIRMAN. Thank you, Ms. Cousino.

[The complete prepared statement of Janelle O. Cousino follows:]

REMARKS OF

JANELLLE A. COUSINO
for

U. S. SENATE
COMMITTEE ON BANKING, HOUSING AND URBAN AFFAIRS

DECEMBER 14, 1988

The Maryland Campaign for Financial Consumer Association

In 1985 Maryland state chartered S & L's were producing nightmares for consumers, regulators and elected officials. The institutions were insolvent and only insured by a quasi-public insurance entity called the Maryland Savings Shares Insurance Corporation. Depositors couldn't get their money; the Governor and legislature assure the public by announcing the state will guarantee full paybacks for the depositors, a promise made without knowledge of the extent of the problem. Stories of systematic theft and personal use of depositor's monies unfolded over the next several months. Thousands of individual Marylanders and institutions had their money frozen. Retirees who needed the interest on deposits to supplement other retirement income; a black church that had been fundraising for over a year in order to build a new church; a family that had saved for college tuition for their daughter; they all had their plans altered without notice and without care for their circumstances. The public's faith in government regulation, institutional integrity and trust in top state officials had been shattered. Angry demonstrators from middle class homes that never anticipated acting out their frustration and political strength in Annapolis came in droves. They wanted answers; they wanted action and they wanted to make sure it never happened again. **This is the backdrop for the citizens campaign for a Financial Consumer Federation in Maryland.**

As director of a statewide citizens organization that had worked on consumer matters we helped to organize a broad-based coalition of groups that made this a legislative priority in 1986. The coalition included senior organizations, Baltimore NAACP, unions, neighborhood groups, student organizations and the S & L Depositors Association. We knew it couldn't correct the past, but it could help protect against the tragedy from happening again.

The advocacy effort for this self-help approach to financial services was a fresh idea for legislators to consider. Speaker of the House Ben Cardin, (now Congressman from Maryland's third district) and Casper Taylor, vice-chair of the House Economic Matters Committee were the co-sponosrs of the legislation. Even with these powerful allies, the banks and insurance companies opposed this legislation with vigor. They liked the amount of regulation they currently had by the state. They didn't want any more demands by noisy consumers and well-intended, but uninformed consumer advocates. They hammered away at the merits of the legislation, but the most destructive blow over the power of state's to tell national banks and federally regulated institutions to insert the F. C. A. information piece in mailings to their depositors. Committee members were concerned that the limitation would severely limit the effectiveness of such a consumer association. This was a major setback.

The Committee voted on the proposal with a 12 yeas and 9 nays, but the measure needed 13 to receive committee recommendation to the floor of the House of Delegates.

Had the states been given the power to for specific limited purposes require banks to provide information to its customers, it is entirely possible that we would have a financial consumer organization operational in Maryland. The state officials were frustrated; depositors were angry and other citizens lost confidence that our regulators cared about our interests. A third-party non-governmental organization for consumer information and representation seemed the most logical.

Special Problems in Maryland

Except for the unusual nature of the S & L crisis for state-chartered and insured institutions, I doubt that the problems in Maryland are unique. We have a bank commissioner charged with administering the interstate banking act, but routinely does nothing to review a bank's performance on community reinvestment and small business lending. There is no reporting information or independently determined performance rating done by the bank commissioner. Since we work on Community Reinvestment issues as well, we know that the first time a bank's community reinvestment performance was ever raised in an interstate bank proceeding at the Board level was when we challenged NCNB's entry into Maryland. What a sham! The regulators govern by looking the other way.

The Consumer Credit regulator in Maryland has testified on numerous occasions in committee hearings that he has no interest in publishing usable, comparative information for consumer use. The banks held up the publication of the Attorney General's Consumer Protection Division, The Maryland Consumer Courier, as the vehicle for information to consumer. However, the Consumer Protection Division is specifically barred from work on banking, insurance and until recently health care.

In last year's legislative session we were able to get adopted a bill to require banks to report their community reinvestment performance and plans to meet the credit needs of their service territory. Our bank commissioner now claims that she has no authority to promulgate regulations to implement the reporting bill.

In 1987 we contracted with Dr. Anne Shlay at Hopkins Policy Institute to produce information on bank performance using Home Mortgage Disclosure Act information for the Metro Baltimore area. We found that controlling for income and housing stock and % black and white integration of a neighborhood, that a black family was 2½ times less likely to get a loan from a Baltimore bank than a white family with similar characteristics. We have ranked institutions on their performance. The highest ranked institution was a black owned S & L. All of the national banks ranked in the bottom third of the study.

What would a FCA do?

The Financial Consumer Association could:

1. Produce shopper's guides on banking services, insurance rates, and community reinvestment performance.

2. Provide advocacy skills information for consumers to represent their own complaint with institutions or government agencies.

3. Institutional advocacy for issues before commissions and legislative bodies. Overall public policy is made in these settings. Consumers need a voice.

4. Provide research for group distribution through major organizations such as unions, churches, community associations etc.

5. Provide to the media materials for general consumer information and use.

Consumers want accessible, easily understood, trusted sources of information. The FCA is the answer.

THE SUN

TUESDAY, JANUARY 26, 1986

In wake of S&L crisis, coalition calls for banking 'watchdog'

By Ellen Uzelac
Sun Staff Correspondent

ANNAPOLIS — Driven by the crisis in Maryland's savings and loan industry, several state consumer groups yesterday called on the General Assembly to create an independent agency — to be called the Financial Consumers Association — to act as a watchdog over the banking industry.

"It won't cost the state a penny to empower citizens in this way," said Vince Goodsell, treasurer of the Maryland Citizen Action Coalition, a statewide alliance of community and labor organizations.

"But first they have to acknowledge the need that exists for direct consumer oversight. Any official who tells consumers to trust in existing institutions is, in our view, either naive or suspect," he said.

Mr. Goodsell spoke at a press conference in the House of Delegates Office Building, a few blocks from the chambers where the Court of Appeals was considering whether former Old Court Savings and Loan President Jeffrey A. Levitt and his wife, Karol, should go to jail for ignoring a lower court judge's order to limit their spending until a $200 million civil fraud suit stemming from the thrift's collapse is decided.

However, the state's highest court failed to rule yesterday on whether that judge could impose a $1,000-a-week cap on the Levitts' spending, and for at least one more day the couple managed to avoid jailing for their Jan. 8 convictions for contempt of court.

Baltimore Circuit Judge Joseph H. H. Kaplan had sentenced Mr. Levitt to 18 months in prison and Mrs. Levitt to 15 weekends in the City Jail after they admitted violating spending limits he imposed in September, but they have remained free while their attorney, Paul Mark Sandler, has filed a variety of appeals.

The groups lobbying for a consumer association that would be financially and politically independent include the Maryland Citizen Action Coalition, the Maryland Savings & Loan Depositors Committee, Bank Watch, the Baltimore chapter of the National Association for the Advancement of Colored People and Maryland Public Interest Research Group.

They are seeking legislative authority to solicit voluntary membership contributions by "piggybacking" mailings from financial institutions to their customers.

John Brown, director of Bank Watch, the financial arm of Ralph Nader's Center for the Study of Responsive Law, said five states have created similar organizations to police utilities. But Maryland would be the first state to set up such an association to safeguard the rights of financial consumers, he said.

Spokesmen for the various groups said they likely would abandon efforts to form such an association if they don't win the power to "piggyback" the mailings of financial institutions.

The CHAIRMAN. Before I get into the questions I just want to announce that Jerrold Nadler, as Assemblyman from New York who has introduced legislation in New York, was to be here to testify. He could not be here, unfortunately, because of a session of the New York Legislature, and his statement will be printed at this point in the record in full.

Testimony of Assemblyman Jerrold L. Nadler, Chairman
New York State Assembly Committee on
Consumer Affairs and Protection

Hon. William Proxmire
Senate Banking Committee
Washington, D.C.
December 14, 1988

Mr. Chairman, I apologize for my inability to be here in person, but because the New York State Legislature is in session today, I regrettably cannot attend. I wish to compliment you for your forethought and commitment in holding this hearing on such a crucial topic, and I assure you that, although absent in body, I am very much with you in spirit.

I would like to focus my remarks on four broad issue areas. First, why do we need a Consumer's Financial Association (FCA)? Second, what could an FCA do? Third, what benefits could consumers reasonably expect to receive if an FCA were created? And fourth, can an FCA lawfully be created by a State, through use of a mandated envelope insert?

I. Why Do We Need An FCA:

A generation ago--perhaps even as recently as ten or twelve years ago--I doubt very many people would have thought an FCA to be necessary. Today, however, I--and others--believe an FCA is vital, indeed crucial, to restore some balance to an arena that has tilted almost completely against the consumer. I believe in a free market, where vendors of goods and services compete freely and fairly, and consumers vote with their dollars. In theory, such a marketplace will result in the "best" providers being "rewarded", and lesser vendors being "punished", by an increase or decrease in their market share. All economists agree, however, that such models are predicated on consumers being able to make informed choices. Today, the financial services sector makes informed, rational consumer decision--making difficult for most, and almost impossible, for many. Why? Let me list some of the problems.

A. The ever-increasing complexity of the financial services market.

The deregulation of many sectors of the financial marketplace has created a few windows of opportunities for knowledgeable, sophisticated consumers; but for every window of opportunity, it seems that there are dozens of trap doors ready to spring on the unsuspecting or the unwary. Financial service products--from the vast menu of savings accounts, checking accounts, NOW accounts, etc. with widely differing rates and fees; to different credit card products with different terms and conditions; from a smorgasbord of mortgage offerings including fixed, variable, balloon, convertible, etc. to a menu of insurance products only a scholar could digest--have all become so complex and sophisticated that the average consumer is bewildered by this array. The day of fairly standardized financial products at nearly uniform prices are a thing of the past. Today, financial service providers utilize sophisticated marketing, advertising and promotional techniques to differentiate similar product offerings, making comparative evaluations difficult. Often products are linked or offerings intertwined. For example, the NOW account comes with free travelers checks and a 50% discount on a safety deposit box; or a credit card which offers free checking and reduced car rental rates and free traveler's insurance; or mortgage rates which are

discounted by 1/2% for borrowers who have a savings or checking account which maintains an average daily balance of $5,000. We have seen the future in the marketing of financial service products, and it is often virtually incomprehensible.

Do these differences, which may appear trifling to some, actually have a significant impact on consumers? A 1985 study by the Consumer Federation of America found that increases in bank charges doubled for the average American household in the period 1979-1983. Between 1984 and 1985, the average cost of a typical NOW account rose 13%; passbook savings fees rose 35%; and returned check fees rose 49%.

Within a major metropolitan market, the differences are staggering. In New York, a NOW account at one bank cost $1, while the same account at another bank cost $169. In Connecticut, the range was from a net income of $11 to a net cost of $157, and in Minnesota a NOW account at one bank cost $163 a year, while the same account at an S & L netted $6. Clearly, the prices of financial services vary tremendously; the different products are themselves often quite complex; and the proliferation of different products and prices has made rational consumer decision making far more difficult.

B. The relative inequality of information and sophistication.

Banks and insurance companies have the wherewithal to purchase information that is unavailable to most consumers. It allows them to position themselves in the most advantageous ways.

Does a bank economic forecast see a rise in credit rates? If so, push variable rate loans to reduce the bank's exposure on fixed rate obligations. Are consumers moving towards C.D.'s? Then advertise a variable rate C.D. product with a convertible option, but make the option such that few consumers will use it. Other than the most affluent or exceptionally well informed, few consumers have access to any equivalent sources of information. As a result, the economic risks seem to be borne disproportionately by consumers, and rarely by providers. It is a card game with marked cards, a rolling of loaded dice. Consumers need access to reliable information that explains products, analyzes terms, evaluates weaknesses and strengths, and gives consumers some reasonable expectation at making an informed, reasoned choice.

C. Unequal representation before the Legislature and regulatory bodies.

Perhaps nowhere is the gross inequality between financial service providers and their consumers more aptly demonstrated than in their relative ability to influence public policy decisions by the Legislature and administrative regulatory agencies. I am not referring merely to "regulatory capture", that well-known phenomena where the regulators and regulated regularly pass through a revolving door as they change sides. The crack attorney in the Insurance Department is wooed away by the great offer from an insurance company, and immediately begins to represent their interests before his old friends at the

agency. The skilled counsel to the banking committee receives a splendid offer from the commercial bank to lobby their interests before the legislators and staff the counsel has come to know so well. Though this, in and of itself, is compelling enough, the gross disparity goes much, much farther.

One need only look at a roster of lobbyists to count the numerical imbalance. Virtually every medium and large bank and insurance company has one or more "governmental affairs" people to watch what happens in the Legislature and at the agencies, and to influence the process. I am not intimating anything sinister; merely the access to key people and the ability to supply key decision-makers with information--of course, one-sided information that will be most favorable to the provider. Not only do the individual companies have lobbyists, but, as I am sure you are well aware, the various *organizations* of institutions have *their* lobbyists--the S & L's, the commercial banks, the credit unions, etc. On any given day when the Legislature is in session, there are barely sufficient seats in the gallery to accommodate all the hired guns watching out for their vested interests. Hold a public hearing on a sensitive issue--deregulation of credit card interest rates, for example--and take a headcount of witnesses and those in attendance. The interests of financial service providers are well-represented, rest assured. But the consumer interest....?

Perhaps the hearing will be fortunate enough to attract the attention of one or two of the small number of consumer watchdogs

--a group such as a Public Interest Research Group (PIRG) or maybe even a national group like Bank Card Holders of America that can afford to fly in a witness. But more often than not, legislators and regulators find themselves inundated with information (position papers, memos, graphs, charts, data, exhibits, experts, etc.) from financial service providers, but faced with a dearth of consumer-supplied information in rebuttal. One need only attend a committee meeting, review a bill jacket, or observe a hearing, to witness the accuracy of this depiction. We will not even discuss the ways to influence public policy through PACs or campaign contributions or similar processes.

Even the legislator or regulator who diligently seeks out other perspectives (the "responsible opposing view") often finds information very hard to come by. On a number of key issues in recent years, for example, I have found it increasingly difficult to solicit information from consumer experts. Financial service issues are often so complex, and frequently require such expertise in highly technical areas of banking and insurance law, that few grass-roots organizations can realistically hope to have much impact. The public may feel that fees and rates are rising, may sense that the playing field is tilting further and further uphill, but as a whole most people feel powerless to change the tide of events. In a nutshell, FCA is all about empowerment--giving consumers of financial services a voice by allowing them to have a spokesperson, a research team, access to information

and to key regulators and legislative policy makers.

D. The unique problems of low and moderate-income financial service consumers.

For all the difficulties the new financial service marketplace has brought to consumers as a whole, the hardships have truly fallen disproportionately on the low and moderate-income consumer of financial services. The elderly who are retired on a fixed income; the single mother trying to raise her children; the farm family trying to survive the vagaries of weather; the urban poor trying to overcome problems of shoddy housing, crumbling schools, and rampant crime; and the millions of underemployed who work but barely manage to earn enough to keep above the poverty line--these people are the greatest victims of the new financial services marketplace.

What makes this class of people so unique? They have borne the brunt of a calculated and deliberate effort by financial service providers to rid themselves of this perceived high-cost, low profit clientele. Branch closings have deprived them in some cases of the brick-and-mortar buildings where they cash their government checks. Minimum balance requirements have forced them to close out small checking or savings accounts. An inability--actual or perhaps perceived--to obtain credit from traditional sources has pushed them to higher cost alternative sources.

This group of consumers, hard-pressed by their own circumstances, are equally squeezed by financial service providers. They are less likely to comparison shop for credit or insurance, less likely to understand sophisticated contract terms, less likely to read whatever comparative evaluations are available through channels such as Consumer Reports or reporters like Sylvia Porter.

Indeed, the evidence is overwhelming that for some types of credit--such as credit cards--few consumers shop for rates or terms; likewise, few insurance consumers are likely to comparison shop for rates and coverage terms. Comparison is all the more essential as charges and fees proliferate. Consider, for example, that:

- some banks pay no interest at all on a savings account if the balance drops below a specified threshold;
- some banks charge fees if account balances fall below a specified minimum;
- nearly all banks impose fees when a NOW account or a checking account falls below a minimum balance;
- many banks impose transactional fees for routine services, including deposits, withdrawals, and balance inquiries;
- most credit cards impose, in addition to interest charges, annual fees, as well as one or more of the following: fees for late payment, over-the-credit line charges, fees for cash advances, fees for use of an ATM, lost/stolen credit card replacement fees, etc.;
- many alternative sources of credit--such as licensed lenders--impose substantially higher interest rates and often take a security interest in real or personal property.

It is a sad reality that many low-income consumers have been priced out of the market by major financial service providers, forcing them to seek such basic services as check cashing from other entities (usually at a substantial cost), or to obtain a money order from a post office in lieu of being able to maintain a checking account. It is clear to me, and to many of my colleagues, that the deregulation of the financial services market has not brought many benefits to the low and moderate-income consumers who must now pay more for basic services.

II. What Could An FCA Do?

No one would be so naive as to suggest an FCA would solve all the problems of our financial marketplace. However, it is quite likely that such an association could have many salutary effects. If we assume our free market model, an FCA would improve the efficiency of that marketplace by providing a key ingredient: access to clear, usable information. Let me review the many tasks an FCA could undertake.

A. Give consumers clear, concise, narrative information they could use.

Because the financial service marketplace has become so complex, it is critical that consumers distinguish good, mediocre and poor financial service offerings. These critical evaluations can only be made if consumers have access to information that reviews, analyzes and digests evaluative criteria that are necessary to the decision-making process. In today's market, that information is severely limited. Although many newspapers carry a financial column which lists rates for a variety of products, frequently such charts lack a narrative to explain the material being reviewed. Some journalists, such as Sylvia Porter, will regularly review financial products and critique or recommend alternatives; these features are often made to appeal primarily to the better educated, more affluent reader. Similarly, magazines such as Consumer Reports appeal primarily to the more upscale consumer. There is a shortage of nuts and bolts, easy to use information--a shortage which in New York has been exacerbated by the recent discontinuance of the Consumer Guide to Bank Services. This publication, produced by the New York State Banking Department, was made available on a quarterly basis in a variety of market regions. It was recently discontinued because of its cost.

Although such services are useful, and undoubtedly are utilized by many consumers, they do not in and of themselves fill the void. An FCA could do the following:

- develop regional shopping guides, with chart comparisons and accompanying narratives;

- publish more detailed and specific informational brochures on a variety of specific topics, such as credit cards, home equity loans, life insurance, etc.;

- target information to particular groups, especially those most in need, such as low-income consumers, the elderly, etc.;

- issue warnings or bulletins to alert consumers to avoid financial service pitfalls, or particularly harmful products;

- work with the media--print and broadcast--to multiply and expand the outreach and audience;

- provide information to other consumer organizations, and cooperate with other groups in outreach and education.

There is no doubt an FCA can be an effective means of generating and disseminating consumer information. There is a second, equally important task for FCA as well.

B. Provide legislators and government regulators with unbiased information.

As I mentioned earlier, governmental policy makers often receive very one-sided information from the financial services lobby. The best-intentioned legislator or administrator is only as good as the information he or she has available, and, regrettably, the information we receive is often incomplete. Obviously ordinary citizens lack the expertise and financial wherewithal to testify at public hearings, comment on proposed rules, or lobby on policy questions. Individuals cannot be expected to undertake such activities; indeed, the laws of the marketplace deter such behavior, for the citizen's marginal benefit is so small that the huge cost in time and money becomes prohibitive.

The marketplace dictates, however, that those with substantial vested interests will take the time and trouble to try to influence public policy makers. This means that financial service providers will have a virtual de facto monopoly on information. Much as our judicial system operates on the strengths of the adverserial process--the "battle" between plaintiff and defendant will, through this conflict, result in the truth being brought out--so, too, will our legislative and administrative bodies be better able to ferret out the truth when presented with both sides or arguments on a given issue.

Armed with information from the consumer viewpoint, policy makers will be in a better position to make reasoned judgments on key issues. Unfortunately, the debate today is dominated by special interests (witness, for example, the current controversy over whether banks should be permitted to sell insurance) and consumer input is sorely lacking. An FCA would insure that the consumer's voice is heard, and that government policy makers hear both sides on any given issue. This should result in a better, fairer process which addresses the needs of consumers as well as providers. Unfortunately, this has not always been the case.

III. What Would Be The Consumer Benefits Of An FCA?

Some of the benefits of an FCA are obvious from the preceding discussion. First, consumers would be better informed, and thus able to make more reasoned decisions in the marketplace. Hopefully, this would allow consumers to get more for their dollar, and to avoid some of the financial service products of dubious value. Secondly, government policy makers would have access to unbiased information from a credible source that actually represents consumer interests. But there are some other, less obvious benefits as well. Among the subtle changes I hope an FCA could help bring about are the following:

A. The creation of a more competitive, efficient financial services marketplace.

Economic theory states that sellers of goods and services often respond to "marginal buyers". Marginal buyers are those purchasers who are just on the borderline between buying and not buying a given product or service at a particular price. They, by definition, are on the margin between buying that product or service and the second best choice, and will readily switch from choice A to choice B. Marginal buyers are concerned about price and quality, and their willingness to shift their loyalties forces sellers to be attentive to their needs.

Unfortunately, in many areas of the financial service marketplace there appear to be too few marginal buyers to keep providers competitive. Evidence suggests that consumers do not shop for open-end credit, and as a result credit card issuers are not very competitive on rates/terms. Demand for credit cards seems to be price-inelastic, allowing lenders to charge 19 or 20 per cent interest plus $25-$40 annual fees. An FCA might be able to create enough marginal buyers to force credit card issuers to compete actively on rates and terms.

The same is true for sellers of insurance. Few consumers appear to shop for such typical insurance products as homeowners, car, life, etc. The lack of comparison shopping has resulted in a market that is not very competitive in terms of price, service, and coverage.

A sobering corollary to this less-than-perfect market is that low and moderate-income consumers frequently bear the brunt of this lack of competition. As service fees and charges climb steeply, those consumers least likely to shop are often the most severely impacted. The only way for this cycle to be broken is for consumers to collectively force change by become price-sensitive.

B. A likely reduction in misleading marketing and advertising practices.

Today's financial service marketplace seems to be ruled by a "lowest common denominator" standard of ethical behavior. The playing field will eventually be reduced to the lowest level of ethical behavior exhibited by a competitor. The reason: there is frequently no one to blow the whistle on false or misleading marketing gimmicks, incomplete disclosures, or bad product offerings.

If, however, some watchdog were ready and able to blow the whistle on any undesirable offerings, a competitor might be reluctant to follow suit. Exposure and opprobrium would be sufficient deterrents to make providers think twice before following suit. Taken to its logical extent, public pressure might be able to deter even some legitimate--but unwanted--actions. For example, suppose Bank A announced it was going to impose a 75 cent service charge for all ATM transactions. If FCA could generate enough of a public outcry, perhaps Banks B, C, and D would think twice before instituting a similar policy.

Indeed, it is not far-fetched to postulate that FCA could be

a sufficient watchdog to actually reduce the need for regulation or legislation. Economists have often stated that government intervention is most necessary in a marketplace that is not functioning properly (because of collusion, anti-competitive practices, fraud or deception, lack of competition, insufficient information, externalities, etc.). An FCA would likely promote competition, creating a healthier, more responsive marketplace in need of less government tinkering.

IV. Can A State Lawfully Create An FCA Through Use Of A Mandated Envelope Insert?

I think we would all agree that in order to be effective an FCA would require broad-based popular support and widespread public participation. Perhaps the most functional and cost-effective way to obtain such support is through a statutorily-mandated notice insert requirement. Such a mandated envelope insert would give the FCA an opportunity to draw from a large enough membership base to create a viable core of supporters, without having to expend huge amounts of finite resources on a costly direct mail campaign.

Is it legal to impose such a mandate on state and/or federally chartered institutions? I certainly would argue that a requirement for a notice--whose content is specifically prescribed by statute, and is merely informational in nature--should certainly be upheld. In support of this proposition I would tender the following arguments:

A. The statutory notice required is not an unreasonable burden on the institution.

A persuasive argument can be made that any notice-insert requirement meets the constitutional criteria annunciated by the Supreme Court. "Preemption of state law by federal statute or regulation is not favored in the absence of persuasive reasons-either that the nature of the regulated subject matter permits no other conclusion, or that the Congress has unmistakably so ordained." Commonwealth Edison Co. v. Montana, 453 U.S. 609, 634, 101 S.Ct. 2946, 2962, 69 L.Ed.2d 884 (1981), quoting Chicago & North Western Transp. Co. v. Kalo Brick & Tile Co., 450 U.S. 311, 317, 101 S.Ct. 1124, 1130, 67 L.ed.2d 258 (1981); Florida Lime & Avocado Growers, 373 U.S. at 142, 83 S.Ct. at 1217. Moreover, state law should be suspended "only to the extent of actual conflict with the scheme of federal regulation." In re Quanta, Resources Corp., 739 F.2d 912 at 915 (3d Cir.1984), citing Stellwagen v. Clum, 245 U.S. 605, 613, 38 S.Ct. 215, 217, 62 L.Ed. 507 (1918).

I would further argue that a state-mandated notice insert is not:

- expressly preempted by federal law;
- implicitly preempted by federal law which has "so occupied the field" as to leave no room for such a mandate;
- inherently in conflict with federal law, so as to make compliance with both laws difficult or impossible; or
- unduly or unreasonably burdensome on the institution, or discriminatory in its application, giving any preference to local concerns.

Instead, an envelope-insert is a reasonable requirement which is applied even-handedly to all financial institutions to promote a legitimate and reasonable state objective.

B. As a public policy matter, an envelope insert is an appropriate requirement.

Despite the expected protestations of financial services providers, who are likely to clamor about an unwarranted intrusion by government into the private sector, it should be remembered that financial institutions are not truly a free enterprise. Consider, for example, the enormous value of the many services--supported by taxpayer dollars--that financial institutions receive from the government:

- backing through an enormous federal insurance program;
- subsidized loans through the Fed discount window;
- billions of dollars of government guarantees for much of the banks' loan portfolio;
- an almost fail-safe regulatory mechanism that bolsters consumer confidence;
- bail-outs of insolvent institutions such as Continental Illinois.

It is obvious that today, with the taxpayer on the brink of being asked to help bail out FSLIC, it is appropriate to ask that financial institutions make a token reciprocal offering to taxpayers. The form that offering can take is federal legislation specifically authorizing states to create their own

FCAs through a mandated envelope insert. In my opinion, fairness dictates that this is an appropriate trade-off for the many benefits the banking community receives from the taxpayer.

I hope Congress will do all in its power to facilitate and promote the development of FCA's at the state level. I am deeply committed to establishing an FCA in New York. I envision this organization will one day be recognized as a model for citizen empowerment, and the stimulus for progress and reform in the financial services marketplace.

Thank you once more for providing me an opportunity to testify before your Committee. My compliments to you for your years of dedicated public service, and best wishes for a happy and fruitful retirement to private life.

The CHAIRMAN. Mr. Nader, you say that banks as well as credit unions offer far better terms to borrowers than finance companies. In one example you point out that personal unsecured loans by banks were offered at 15 percent compared with 31 percent by finance companies, more than twice as high, and then you also argue that less educated persons and members of minority groups were more likely to patronize the finance companies in spite of the huge disadvantage.

You also cite evidence that the credit scores of finance company borrowers was not much different than the credit scores of bank borrowers. In other words, in spite of the fact that the finance company had less educated, perhaps less affluent minority clientele than banks, there wasn't much difference in the payment/repayment of loans.

If this is true, why don't we need an educational program with the banks to convince some that they ought to be more aggressive in seeking clients among the less educated and minority borrowers? Is more aggressive banking competition part of the answer here?

Mr. NADER. I would like to have Mr. Brown answer that part of the question.

The CHAIRMAN. Fine.

AGGRESSIVELY COMPETE FOR BORROWERS

Mr. BROWN. I think to some extent that has happened since the enactment of Truth in Lending. If you look at—I don't have the figures here, but I know——

The CHAIRMAN. Let me interrupt to say that the figures, as I recall, were well after the enactment of Truth in Lending, I believe. Truth in Lending, as you know, was enacted in 1968, and I am sure they were worse before that, but Truth in Lending has helped. But apparently it is something that has persisted since then.

Mr. BROWN. I was going to suggest that prior to Truth in Lending the bank's share of the small loan market, the unsecured personal loan market was a lot less than it is today. The banks have become more aggressive in taking more of that market away from finance companies. I think it is a slow process, though, and I would also suspect that it may well have peaked. Although it is true that if you look at those loans in isolation they would definitely be profitable for the bank, I think that the banks want to keep more upscale customers and have a total relationship with them, selling more services than they might to the low and moderate income customers. They are probably not going to go too heavily into those markets unless they see a broader relationship.

The CHAIRMAN. I am not so sure that would be the case. There is no question that banks are anxious to increase their profits. There is no question that the data here provided by Mr. Nader is accurate. Nobody challenges that.

We had that experience, as you know, with redlining, when we found some institutions were willing to make loans on the basis of the structure and the credit rating of the people who were borrowing money, and they found that it was profitable, but somehow that hasn't persisted as it should

It is hard to understand why banks are passing up lucrative opportunities to do well and to win people who are going to repay their loans. It doesn't matter whether they are black, Hispanic, educated or uneducated. That shouldn't make any difference.

Is there some kind of another element at work here that I have missed?

Mr. NADER. They have been closing down their branches, and finance companies stay in the poorer areas and gouge their customers. We have seen in the last few years more and more bank branches closing down.

The CHAIRMAN. I don't know why those branches aren't profitable. If they are profitable for finance companies, why aren't they profitable for banks? Banks would have to overcharge to make them profitable?

Mr. NADER. More and more the larger banks, as you know, have been going on the theory that if they make huge loans in mergers and acquisitions and other areas they can make money quicker than if they have to do it on a retail basis.

Now, there is a counter trend—we have been reading about it in the paper—where some banks are saying that we better go back into the consumer area more aggressively, but you know, banks have all kinds of reasons for shutting down their branches. They can't get people to work in those areas and there is a security problem, and et cetera, et cetera.

So it leaves the lower income area of the city wide open for these finance companies, charitably called finance companies.

Ms. COUSINO. I negotiated with a few banks on their community reinvestment undertakings that they are supposed to do, and what the banks tell us is that the reason they don't—they don't really feel it is their job. If somebody comes to them with a ready made loan package that won't take them very much time to do, they may do the occasional very good credit rating house no matter where it is in the community, but for the most part they consider those much smaller loans that don't have that much of a return and that the time putting together a package for some of the more difficult neighborhood residents that may want a mortgage is not worth their time.

But we have been negotiating with them to put money into the housing counseling programs all over town so that in fact they come prepackaged, but they are not off the hook. They must do this, but they are not looking for the business. They don't think those people are going to be an important part of their customer mix. They could forget the 5 percent of the population that are in that income scale and still make plenty of money.

The CHAIRMAN. I hope people in the banking industry read the record here. I hope we can call that to their attention.

Mr. Nader, let me ask you this. You call the key to the FCA an insertion required with the billing, and so forth. This obviously wouldn't reach the people who are most in need of information, the minority groups, the people who are victimized now by paying high interest rates. Finance companies would be exempt from this. They wouldn't have to carry this. They apparently don't have the same kind of financial statements, and apparently there is no mechanical way we can do it.

What is the way to reach these people who are the ones most discriminated against?

Mr. **Nader**. The charter of the FCA would require the FCA to deal specifically with the information needs and problems of low income, minority——

The **Chairman**. How would they get at it?

Mr. **Nader**. You mean how would the low income people belong?

The **Chairman**. That is right. How would they be able to reach them?

Mr. **Nader**. There could be a provision for membership at a very nominal fee or free for low income people. You do need two sides here. The charter would require an affirmative——

The **Chairman**. Let me interrupt to say the problem is that you would do this in the statements by the banks. These people I am talking about don't use the banks. They would not get anything from the banks. They use the finance companies.

So how would you reach those people who at the present time do not use the banks, although the banks would offer a better source of credit at lower cost?

Mr. Brown.

Mr. **Brown**. It is important to distinguish between the insert, which is really a solicitation to join the association, which would go out through the bank statements, and other informational material. The insert is in our testimony on page 17. On page 17 you can see the actual text of it. That is all that goes out in those mailings. It in no way comprises all of the informational material, the shoppers guides and brochures that the association sends out, not just to its members but to the public at large and, in particular, to low and moderate income consumers.

So even though lower income persons may not actually be members of the association—and you would expect that because for economic reasons generally many low and moderate income persons would not become members of the association and would not be willing to pay membership fee—but nonetheless the association, by virtue of the statute and the charter obligation, would have the duty to serve them. We feel because their needs are great and because the association is a public purpose——

The **Chairman**. The only way you serve them is to provide information that they don't have, and if you—if they don't have their name, address, and so forth, so that you can provide that information some way—Mr. Nader I think very astutely suggested that you have perhaps lower membership fees or provide it to them free, but you have a list, you have to have a mailing list.

Mr. **Nader**. The FCA would go into low income areas, have information sessions, training clinics free of charge that would attract more people from the lower income areas, not only to provide information directly in a person-to-person way in addition to written information and shoppers guides, but also to be able to answer questions and to invite membership. There would be that kind of outreach, physical outreach in terms of these meetings and clinics.

Mr. **Brown**. And most important of all, it would work through existing community organizations, elderly associations, distributing its material through those associations, many of which are interested in getting material like that.

So, its ability to reach the consumer is not limited to its membership base. It extends beyond that, and I think that affirmative obligation is important not only because it strengthens the rationale for the association, but also, quite frankly, because if the association is focused exclusively on its members and its members are predominantly middle class, then it would have a natural inclination not to serve the low and moderate income people. So it is designed to correct that.

I would also point out that the Federal Reserve Board's last survey of household finances shows that 88 percent of households in the United States do have deposit accounts. So, yes, I agree with you that there are many that you want to reach that are outside the banking system, but nonetheless, you are getting pretty good coverage when you get a number that is 88 percent.

The CHAIRMAN. That is a fascinating figure. I didn't know about that. That is very helpful.

Mr. Nader, I want to divide this into two parts. First, without discussing the constitutional nature of the mechanism itself, can you address how important it is to the overall proposal to be able to include in the regular monthly billing this literature? Could the FCA be established and attract members without that kind of a mechanism?

Consumers Union, for example, seems to be a healthy instance of a group that is able to function without that kind of assistance.

Mr. NADER. Probably not in any scale of time. That is, if we want to establish the financial consumers associations and get it rooted in the community without waiting for 40 or 50 years and get it accessible to middle and lower income people, I think the insert is critical, a critical precondition.

Consumers Union is now well over 50 years old, and its clientele is in the upper middle class area primarily. It has made efforts to reach out to lower income people and children in particular, but even after a half century it has had great difficulty, by its own admission, in doing that.

And finally, you know, democracy is in good part facility, and I don't see it just as a convenience. I see it as an insert that makes the substantive right of access to this information by consumers a reality. You can say to people, well, everybody has the right to vote, but you have got to walk 100 miles or 50 miles to the precinct.

That is not democracy. So I don't think this should be apologized for. I think given all of the Federal subsidies to the banking institutions—the FDIC, FSLIC, all of the bailouts that lurk in the background when you get into trouble, all of the Federal Reserve services, et cetera, for the banking and other financial communities, and they have been known to help the brokerage and insurance communities, too—I think that it is a very small quid pro quo for consumers, many of whom pay these bills as taxpayers, to have an insert right.

CONSTITUTIONALITY

The CHAIRMAN. Mr. Brown, I would like to ask you about the constitutional aspect of it. I undersand a Supreme Court decision regarding consumer utility boards does cast doubt on the constitutional basis for forcing corporations to enclose in their client mailings any material from other groups.

I note the California Supreme Court, December 7, after the vote on the insurance situation, which was a great victory for Mr. Nader, enjoined the recently approved Consumer Insurance Board from using the mails to collect membership dues, and that was by something like a 5 to 2 decision.

Please discuss the relevance of these decisions on the financial consumers association.

Mr. **Brown**. We address that at the tail-end of our testimony. It is on page 18, but I am not suggesting you turn to it.

The Supreme Court's argument in the *Pacific Gas & Electric* v. *California Public Utilities Commission* case was that the Commission by requiring the utility to enclose a brochure or an insert coming from a nonprofit organization—a ratepayer association, pre-existing, not created by the utility commission—that included literally any views that were held by the ratepayer association was, to use the exact language of the court, a forced association with potentially hostile views. They made the finding, the term——

The **Chairman**. That language would have been presumably applied to this particular mailing, too, wouldn't it?

Mr. **Brown**. I don't believe so.

The **Chairman**. Why not? They are potentially hostile views, not that there is anything wrong with them. They are healthy, and I think most of us would applaud them, but the bankers might very well consider this to be hostile.

Mr. **Brown**. I understand. But in the California situation the consumers association had full authority to draft its own message. It could literally say anything it wanted in the insert. It could say in a sense, consumers, are you tired of being ripped off by your local utility? It could have a picture of the utility with its boot heel squashing the consumer's head. Under the provisions——

The **Chairman**. Let me interrupt again. In this particular case you are not going to give the banks the right to edit what is put in by the FCA, are you?

Mr. **Brown**. No, but there is a world of difference because in the legislation that we have been describing here—the bills as they have been introduced in the New York Legislature and the Maryland Legislature—the insert requirement and all of its contents are specified verbatim in the statute itself. It is simply a notice, a statutorily prescribed notice, and the association has no control over the contents of the insert.

You see on page 17 of our testimony——

The **Chairman**. In those bills would they provide that it must be confined to that? It cannot include any argumentative material, any criticism whatever?

Mr. **Brown**. That is right. The legislation says the insert is exclusively that statutory prescribed notice and nothing else. The association has no control over that notice. It is a notice coming from the State. It is not a notice of the association. It is not views. It is not speech in any constitutional sense, and I don't see how it could be interpreted as being hostile.

So really, on three grounds I think it is clearly distinguishable from the Supreme Court's decision.

I would also like to add—you raised a question, would an association really need this insert provision. In my testimony I mentioned the economics of the insert, and there was one missing factor, and that was that I didn't have the postage cost for direct mail solicitations.

Mr. Nader gave that to me. He says it is currently about 8.3 cents postage per envelope.

Now, in the example I gave, if you are a 200,000 member association that has to send out 10 million mailings every year, and if your postage cost is 8.3 cents per mailing, then that is postage cost alone of about $800,000 per year. If you are charging your members a membership fee of $6 per member, you basically are using up about two-thirds of you membership revenue just in postage costs to maintain your membership base.

So you could limp along that way, but the left over one-third of your revenues really would have to be targeted to provide services to your full paying members. And, you can see how you wouldn't have much left over to deal with the low and moderate income consumers or to engage in broader information dissemination activities.

So, I think the economics are almost inexorable. If you want an association that has a broad mandate, then you need something of this nature.

Mr. NADER. Especially if you have such low minimum dues.

The CHAIRMAN. What I am getting at, as I understand it, is that if the State takes the initiative and decides to permit this, that it would apply to federally chartered as well as State chartered institutions.

Is that right? Is that what you are really trying to achieve?

Mr. BROWN. Yes.

The CHAIRMAN. And as I understood the Cousino testimony, that was one of the reasons, while though it got a majority of the committee voting for it, it didn't get the majority necessary, two-thirds or whatever it was, because of the fact that it did not apply to federally chartered banks and therefore there would be discrimination between State and federally chartered banks.

Mr. BROWN. That is correct, and there is a deep seated fear——

The CHAIRMAN. We would not take the initiative, we would not say if some State, Mississippi or Florida or whatever, some State didn't want this that it would be required. It would only be if the State legislature takes the initiative, is that correct?

Mr. BROWN. That is correct.

The CHAIRMAN. Then it would apply to federally chartered as well as State chartered institutions?

Mr. BROWN. Yes.

The CHAIRMAN. Much more moderate than people would construe it?

Mr. NADER. On the constitutional issue, Mr. Chairman, it was a 5-3 decision in February 1986 regarding the California case which Mr. Brown alluded to. It was the most extreme interpretation in Supreme Court history of the constitutional rights of the corporation. It basically said that this insert violated the corporation's first amendment rights to remain silent and not be provoked into responding to the arguments in the insert.

The dissent, which was a very powerful and comprehensive one, was written by now Chief Justice Rehnquist. The majority opinion was written by Justice Louis Powell. Mr. Powell is now retired. Mr. Rehnquist is now Chief Justice.

There will be another case coming up within 2 years, possibly from Illinois, which I hope will lead to either distinguishing the February 1986 case or reversing it.

Mr. BROWN. Mr. Chairman, you mentioned that the California initiative provision that requires insurance companies to disseminate an insert comparable to what we have been talking about—it was passed as part of proposition 103 in California—has been stayed by the California Supreme Court, and that is true. But it was not stayed on the first amendment grounds that we have been talking about. It was stayed on the basis of a very peculiar provision in the California Constitution that says that an initiative cannot name a private corporation—and this is obviously only relevant to initiatives, as opposed to statutory legislation. The insurance industry argued—to me a rather peculiar argument—that by authorizing the Insurance Consumers Association the initiative had named a private corporation, and therefore it was void under that peculiar provision of the California Constitution. But I don't see that as any precedent for the larger issue here of first amendment rights.

The CHAIRMAN. Ms. Cousino, we hear that consumers don't shop wisely and don't analyze the information that is available about financial services and that there is an enormous amount of information, of course, available about financial services, that we are constantly being advised on how to invest our money.

How would an FCA, which would publish more information, change that?

We have such a sea of information that most people are exposed to. You pick up any paper, there is always a financial section. The Wall Street Journal is full of it, and every other—the Post is and every other paper.

How would this really—how would you persuade consumers to read this and to act on it?

It is not exciting, it is not glamorous. How would you do it?

Ms. COUSINO. It is a combination of reaching an audience and aiming your message at an audience that doesn't read the Wall Street Journal or the Post financial section and also a distribution method that would make it more available to people who aren't really buying the popular press.

When we were looking at institutions, it is hard to compare information on deposit information. What is printed in the Baltimore Sun on Sundays every once in a while is what the current mortgage rates are and what the savings or CD rate is. But most of the people that we are working with are not in a position to invest in a CD. They don't have that much capital sitting around, and they also aren't necessarily looking for mortgages, although they might.

We cannot really compare apples because we are not really giving the information institution by institution, apples to apples at this time. So the difficulty of someone actually figuring out where they will get the best possible treatment in terms of their deposit services or checking account—what is the bounced check fee, what is the holding time—now it has been settled—but what are the other fees in terms of ATM charges. That is certainly the rage right now in the Baltimore market, since everybody is now charging for accessing—using your ATM card.

The Welfare Department is now talking about having people getting their DSS checks actually in the form of an ATM. They will get an ATM card, and their checks will go directly to a depository institution, and they will only have access to their welfare amount through use of an ATM and how that gets charged to the individual consumer or paid for by the bank.

It is certainly an issue. We don't have enough information yet to even advise people or the State on what they should do.

I think really it has aimed that message at the right market, and in this case we have—how many people—you probably do know lots of people who read the business section of the newspaper, but the people that I am talking to usually are looking for someone who has already figured it out and trying to give them some other information, and they look to a consumer group that has a history in that issue, to give them some skills and/or some information of where to even go, if they even know to do that.

So I think it is a major outreach piece, working through existing community organizations to get that word out.

Mr. NADER. FCA also, Senator, would innovate more specific and easier to use information delivery systems. For example, they would develop in communities a small number of savvy consumers, who will then be kind of like leaders in their community in further disseminating where the best deal is.

The FCA will encourage financial literacy/consumer courses in the schools so that the children coming out of the schools begin to be more capital conscious in knowing how to shop. But if you don't have an instrument like this, like FCA, you don't have an opportunity to innovate in providing information clear down to the neighborhood level—information about what the best deal is in various financial services.

The CHAIRMAN. I want to thank you very, very much. I have got other questions, but before I yield to Mr. Nader for a point of personal privilege that he wanted to make at the end of his testimony, I want to say this has been an excellent panel, and we are delighted that you came in to testify.

Mr. Nader, you wanted to make a statement?

Mr. NADER. Yes, I did, Senator Proxmire.

With your permission—and I know it is going to be difficult for you to give me permission—I would like to make some observations about the importance of being Senator Proxmire, given the fact that this is the last hearing that you are going to be conducting. I believe it is the last time I will be testifying before you after all of these years.

I would just like to put on the record an expression of my appreciation for all your years in Congress and to articulate what I think are six features, very briefly, that revolve around the theme of the importance of being Proxmire.

The first is your steadfastness over the years. Nobody has had a more consistent record of being present on Senate votes. Nobody has been more of a Senator on the job, nobody has conducted more important hearings after hearings during and after congressional sessions have been in operation.

In a word—and this is a very fine tribute I can give you—you are the Lou Gehrig of the U.S. Senate. [Laughter.]

Second after steadfastness is your authenticity. You have been known to write your own books and your own speeches. I cannot in the wildest imagination ever see you giving a speech by looking at a teleprompter. You listen and you talk in ways completely different from most politicians.

I have spent many an hour talking with Senators and Representatives who, with their glassy stare of preoccupation look right past your words, but when I talk with you—and Kenny McLean is in the room and Jon Brown and others—I really get the feeling that no other person in Congress has a greater capacity to listen, not only to listen but to talk like an ordinary person rather than a packaged politician.

Third, I think you have set a new standard for frugality in campaigning. You have not only raised money only to send the contributions back with the postage that it cost, but you have done it in a way where, as I have written elsewhere, I think you could have been elected in any State in the country.

This is not a peculiar Wisconsin phenomenon, as we have seen in recent elections, but it is a peculiar Proxmire phenomenon, which would have worked in Mississippi, Connecticut, or California. You have applied this frugality to governmental policies; in particular, the Defense Department.

You have championed whistle blowers probably more consistently than any other member of Congress, the ethical government whistle blower and other whistle blowers who put their career on the line and display a rare profile in courage because they believe in doing their job and upholding their oath of government service and office.

And I remember once you addressed our whistle blowers conference in the early 1970's, which resulted in a book on whistle blowing, and the room was full of whistle blowers and they had their champion in front of them talking about their rights and their contribution to society.

You not only have run for the Senate every 6 years; you have run to the Senate almost every day for many years, and I am sure you have had some constituent contact on the move in that respect as well.

We have always appreciated your opposition to increased congressional salaries, and we are going to miss you in the battle that is coming up with the biggest salary grab of all about to be proposed.

Fourth, your integrity. One can be very brief about that. Proxmire is a synonym for integrity. You set the standard for your colleagues.

Fifth, it is the substantive record of justice. I think that is your trademark. You have been exceedingly good on consumer and environmental issues. If you had more support on the Banking Committee, I think you would have made a more indelible mark against the financial concentration trends and other abuses which you have spoken out in the past about.

But apart from that, you have established a record hearing after hearing after hearing, which is no small accomplishment given the increasing diminution of record establishment in congressional committees, particularly in this decade.

And, finally, you are setting another standard because after you are leaving you are not going to become a member of a corporate firm or a corporation. You said that you are going to engage in more research, writing, and speaking out.

So it cannot be said that you have retired from Congress because you are far from tired. It just can be said that you are moving from public service to citizen service, and we look forward to working with you for many more years.

Thank you.

The **Chairman**. Thank you Mr. Nader. That was a marvelous statement. I must say you made a lot of great statements, but I think that is one of the best. [Laughter.]

You understated the case, of course. [Laughter.]

No, thank you. Thank you very much. It is something I will take to my grave.

Thank you, sir.

Our next panel is Blair Horner, legislative director, New York PIRG, Albany; Robert Hunter, president, National Insurance Consumer Organization of Alexandria, VA; and Michelle Meier, counsel for the Government Affairs, Consumers Union, Washington, DC.

I understand that Mr. Horner—we knew he would be late, so we will proceed with Mr. Hunter and Ms. Meier, and then hopefully Mr. Horner will be here.

Mr. Hunter, go ahead, sir.

STATEMENT OF ROBERT HUNTER, JR., PRESIDENT, NATIONAL INSURANCE CONSUMER ORGANIZATION, ALEXANDRIA, VA

Mr. **Hunter**. It is a great opportunity. I would like as a citizen to second what Ralph Nader just said to you, and as a bureaucrat I would like to add another aspect, and that is you were chairman of both of my committees when I was Federal Insurance Administrator, both oversight and the money.

You were tough, and you always asked us a lot of hard questions, and a lot of times I kind of trembled coming before you because I knew you would ask good questions.

But you were fair and you never really grandstanded with us, and I really appreciated the way you handled the running of government. I knew you were totally on top of it, but also totally fair and reasonable and looking to make it work and not grandstand on it, and I appreciate that aspect of what you have done as well.

Just recently on election day, as you mentioned, the California voters passed proposition 103 dealing with insurance, and in that proposition is embedded a financial consumers association for Insurance, which has been stayed because of a peculiarity in the Constitution of California dealing with initiatives.

The people of California have done the right thing in voting for such an organization for two very important reasons—the need for information, unbiased information, information from a source that they would trust, information that would compare prices and service levels in a clear way and take away any misleading information that is being published.

That is the first area of need.

The second is advocacy. Price information is very difficult in the insurance area to put together. There are some ways to put together life insurance because that is more of a national product, even though a very complex product.

Even we when we want to assess a good policy, we have to go to a computer and our actuary James Hunt, who used to be the Vermont Insurance Commissioner. Just by looking at a policy cannot tell you if it is a good one or not. He has to take the printout information, go onto the computer, and then say, yes, this is a good one.

So clearly the man or woman in the street trying to determine a good life insurance policy often is faced with an impossible task.

But beyond that, beyond life insurance, most insurance prices are local in nature and very complex. Each State approves slightly different forms. Companies use slightly different products. There is product differentiation.

AUTO INSURANCE

Auto insurance is a good example. Most States have many territories, sometimes as small as a zip code or a few zip codes, and within that territory there may be hundreds, sometimes thousands of classification possibilities for each company. To try to go out into that market and compare price, it is almost impossible.

And I think what Mr. Nader was mentioning about computers is computer capacity would lend itself to individualized price information comparisons that could be of absolute use to an individual consumer. Say an auto insurance consumer could go into the association and by computer be given a list of the 10 cheapest companies and something about the service levels of those companies.

It is a monumental task, though, to keep that computer base upgraded. Rates change constantly, and so to try to do it on a national basis is virtually impossible. An individual State association that had funds, however, could to it.

Now, besides the fact that information is very difficult to get, you also are faced with the problem of misinformation in the marketplace. Very excellent hearings over the years by Congressman Pepper has documented the Medigap abuses, where elderly have been sold 20, 30 policies, spending a quarter of their fixed income on repeat insurance policies that are in a sense useless.

There are celebrity TV ads that are totally misleading, targeted at seniors. There are companies that specialize in inner city insurance type transactions, the so-called substandard insurance companies and agents similar to the banking, where the big institutions are not acting as predators.

There are these scavenger organizations that come in and prey on particularly the poor and minority groups.

Similar redlining type charges over the years as have been leveled at banks have been leveled at insurance companies, and there still is a lot of evidence of underserving certain regions of each State and certain markets.

The kind of information necessary to get into those markets is just not available.

So the consumer association idea is very viable for insurance.

Also, there is the need for advocacy.

The General Accounting Office in 1979 in a report called "Issues and Needed Improvements in State Regulation of Insurance" found that insurance regulation is not characterized by an arm's-length relationship between the regulators and the regulated, and they a revolving door of about 50 percent of the State insurance commissioners coming from and returning to the insurance industry.

We have just recently, along with the professional insurance agents, done as a study of State insurance regulation, and we found the same kinds of problems, regulators lacking the personnel, lacking the tools, not having the money, not having actuaries.

Aetna has more than twice the actuaries of all of State regulation combined. Just one insurance company.

They are outgunned and outmanned, as the New Jersey Insurance Commission put it. But if the staff had both resources and just in some cases even honesty, so particularly will—there is a serious problem that was identified in a study specific to State regulation of insurance by Harvard University, called the "Agent and Arbiters." And that was published in 1981.

One-third of the commissioners viewed the role as agents, which was defined as representing the public interest and not the insurance industry; and two-thirds said that their role was arbiter—that is, that the insurance industry is part of the public as much as individuals although they may need less help.

So, this means that the public is not fully protected, since commissions tend to view their role as judicial in nature. But they are only hearing the insurance company side of the case.

ADVOCACY

Advocacy can take many forms. It can include public policy issues. It can include specific interventions in rate cases.

I cite, for example, a South Carolina auto rate case where we intervened, and the rate bureau, which was fixing prices under the Ferguson antitrust exemption, withdrew a 35-percent rate increase worth about $120 million, just when we filed our papers, without even going to hearing.

So, there are examples, and that is only one. I have been involved in hundreds of such cases where significant savings for the people have been generated, just from the fact that someone is there with some knowledge and putting a different position before the commissioner.

So, here is an industry with heavy lobbying at the State level, No. 1 in each State in terms of the lobbying efforts in both dollars and numbers of people, but no one representing in any organized way the insurance buying——

The CHAIRMAN. You say number one in each State both in dollars and the number of lobbyists. Do you have documents to support that?

Mr. HUNTER. Yes.

The CHAIRMAN. That is very interesting. I didn't know that.

Mr. HUNTER. I cited an example of a finding in Massachusetts in my testimony where they had 60 lobbyists, the Tobacco Institute had one, General Motors, General Electric had one, the State banks and utilities had two or three dozen, but the insurance industry had 60. That is one example.

But I have been in every State of the Union testifying, particularly during the liability crisis, and one question I always ask the local and State people is which industry has the biggest presence here, and it is always—the answer is always the same.

Now, there is no Federal oversight of insurance as such. The McCarran-Ferguson Act has delegated the authority to the States without oversight and without any standards and, at the same time, exempted insurance from antitrust. Information, if it is misleading, the FTC cannot study insurance anymore, since Congress in 1981 passed the FTC Improvements Act. So, even misleading advertising cannot be stopped at the Federal level. So, from the information point of view in advocacy and a control point of view, the Federal Government is out of the picture.

The State consumer boards would be a great boon, I believe, to the insurance consumer and the Nation.

The California vote signals a new day for this sort of activity, I believe, and I believe that these periodic liability crises—automobile prices that are beyond reach, mounting health insurance costs and so on—require effective information to hold down costs and require effective advocacy to make sure that rates are fair.

I appreciate the opportunity to testify this morning, sir.

The CHAIRMAN. Thank you, Mr. Hunter.

[The complete prepared statement of Mr. Hunter follows:]

NATIONAL INSURANCE
CONSUMER ORGANIZATION

TESTIMONY OF

J. ROBERT HUNTER, JR.

NATIONAL INSURANCE CONSUMER ORGANIZATION

BEFORE THE

COMMITTEE ON BANKING, HOUSING AND URBAN AFFAIRS

OF THE

U. S. SENATE

December 14, 1988

121 N. Payne Street
Alexandria, Virginia 22314
(703) 549-8050

Mr. Chairman and members of the Committee, it is a pleasure to appear before you today.

It is particularly a pleasure to be able to thank you, Mr. Chairman, for the excellent oversight you gave to the Federal Insurance Administration during my years there as Administrator. You were tough on our budget and in monitoring our efforts, but you were fair and supportive when we needed help at certain tough times (particularly when we shifted from an insurer serviced National Flood Program to a more efficient and effective competitively bid servicing approach). I appreciate what you have done.

California's Vote for Insurance Reform

The desire of consumers to establish independent consumer organizations to assist themselves with information and by advocacy was made clear when Proposition 103 was approved by California voters on November 8, 1988. A key provision of that initiative reads as follows:

> "The commissioner shall require every insurer to enclose notices in every policy or renewal premium bill informing policyholders of the opportunity to join an independent, non-profit corporation which shall advocate the interests of insurance consumers in any forum. This organization shall be established by an interim board of public members designated by the commissioner and operated by individuals who are democratically elected from its membership. The corporation shall proportionately reimburse insurers for any additional costs incurred by insertion of the enclosure, except no postage shall be charged for any enclosure weighing less than 1/3 of an ounce. (2) The commissioner shall be regulation determine the content of the enclosures and other procedures necessary for implementation of this provision. The legislature shall make no appropriation for this subdivision."

Thus, the California voters have voted to establish a Financial Consumers' Association limited to insurance.

Information Needs

Consumers are right to vote for the creation of this sort of group. They are very confused about insurance. 1/

There is need for independent, state based information that describes coverages, tells which policies are the best,

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1/ ". . . insurance prices, particularly life insurance prices, are notoriously hard to evaluate, leaving consumers unable to spot the best values. . .", Invisible Bankers, Andrew Tobias, Simon & Schuster, 1982, p. 24.

determines which companies offer the best service and publish reliable price information.

Price information for life insurance tends to be national in nature, leaving a national organization (such as NICO) to analyze it. NICO has done much of this for life insurance. I have supplied a copy of our book "Taking the Bite Out of Insurance: How to Save Money on Life Insurance, by James Hunt, as an example of how specific, highly useful information can be developed. We also offer a computerized service which helps individuals determine if a specific life insurance policy is valuable or not. Finally, we offer a Buyer's Guide to Insurance (supplied to staff) that gives basic shopping tips, including what coverages not to buy, for all kinds of insurance. While we name some low priced companies, we cannot supply the specific price information consumers need. Most insurance prices are, however, local and complex in nature. Auto insurance is a good example. Rates are set by state, and even by territory within the state. Some territories are as small as a few zip codes. Within this territory there is a large array of classifications based on age, gender, marital status, use of car, type of car, age of car, etc. Consumers need to know if coverage varies between insurers for price information to be useful. Consumers want to know something about service level as well. Price/coverage/service information could lead to a value rating -- something no consumer has for insurance today.

To be really useful, in most lines of insurance, information must be compiled by state groups. It is simply too large a task for NICO or Consumer Reports to undertake.

The problem of lack of information that consumers face is compounded by misinformation from insurers. For example, Congressman Pepper had documented abuses in the sale of medigap policies by agents. Celebrity TV ads targeted at seniors have been shown to play on fear and love and often to mislead. Only a few states have outlawed these ads and the Federal Trade Commission is unfortunately prohibited from even studying insurance without specific authorization from either the House or Senate Commerce Committees (Congress removed the FTC study capacity following their study of life insurance which helped consumers understand why term insurance was a better buy than whole life).

Insurance markets are varied and insurers target certain groups. Besides abusive practices vis-a-vis seniors on health and life insurance, inner-city residents are prayed upon for auto insurance by so-called "substandard" insurance companies and agents, often resulting in massive overcharges.

Advocacy Needs

> "GAO found that insurance regulation is not characterized by an arms-length relationship between the regulators and the regulated. While the extent of the "revolving door" problem may be overstated by the critics of State regulation, about half of the State insurance commissioners were previously employed by the insurance industry and roughly the same proportion joined the industry after leaving office. The meetings of the National Association of Insurance Commissioners are numerically dominated by insurance industry representatives. Its model laws and regulations were drafted with advisory committees composed entirely of insurance company representatives." 2/

The capture of state insurance regulation by insurers has not been reformed (see attached Atlanta Constitution editorial). Even if all insurance commissioners were above reproach, only one-third of commissioners in the country view their role as "agents" (i.e., "representing the public interest and not the insurance industry."). The other two-thirds defined themselves as "arbiters" (i.e., the insurance industry "... is the public as much as individuals although they may need less help..."). 3/

This may be why states have not done a good job in making specific price/product/service information available. It certainly means that the public is not fully protected since commissioners view their role as judge, but hear one side of the case.

Insurance advocacy can reap immediate dividends. For example, I prepared testimony in a South Carolina auto insurance rate case where a rate bureau (price-fixing is allowed under the McCarran-Ferguson Act) representing about 80% of the insurers (40% of the premiums) applied for a 35% rate increase worth about $120 million. I never got to testify, because the rate bureau withdrew the filing and agreed not to file for a year when they reviewed my papers.

This is not an isolated incident. In Virginia for Worker's Compensation, in several New Jersey cases, in Oklahoma, and in several other cases we have seen sizable savings from intervention.

2/ Insurers and Needed Improvements In State Regulation of the Insurance Business, GAO, 1979.

3/ The Agent and the Arbiter: Two Important Actors on the Regulatory Stage, Harvard Business School, 1981.

The state insurance departments are weak. A report sponsored by consumers groups and agents found, among other weaknesses:

- In most states, regulators lack the personnel and tools to properly fulfill their missions of providing adequate consumer protection and monitoring insurers for solvency.

- On average, less than six percent of the annual insurance premium taxes collected by states is spent on insurance regulation. Department funding represents less than one-tenth of overall state budget totals.

- The important function of consumer affairs is too often relegated to clerical personnel or entry-level professionals. Consumer complaint activities, therefore, tend to be passive, providing little in the way of actual redress for insurance consumers.

- Salaries for consumer affairs staff, actuaries and attorneys in insurance departments are well below national scales on average.

- The number of complaints received by insurance departments is staggering -- more than 23,000 per department per year on average. Only one-third of the state insurance commissioners interviewed have specific written procedures for handling consumer complaints. One out of three departments still logs complaints manually. 4/

This weakness probably stems from the fact that the insurance lobby is the number one lobby at the state level, viz:

- Lobbyists hang around all fifty state capitols looking after the insurance industry's interests. Not all work at it full time; many represent other clients as well -- but they're there when they're needed. Take Massachusetts. Massachusetts had, in all, 400 men and women registered as "legislative agents" in the first quarter of 1981. There was a man representing the Massachusetts Cosmetologists Association, two representing Common Cause, two for the President and Fellows of Harvard College. The tobacco institute had a man on retainer; Ford, General Motors and General Electric each had one. The state's banks and utilities has two or three dozen each. The insurance industry had sixty.

4/ A Study of State Insurance Department Operations, CIIG, PIA, April, 1988.

  Insurance lobbyists outnumber all others in virtually every state. "Our strength?" pondered one. "[It] comes from having a group of people who tell a story that is logical and reasonable to a group of people who don't have the slightest idea what you're talking about."

  It comes, too, at least in some instances, from the assistance lobbyists may occasionally provide in obtaining loans, mortgages and insurance, and (for those legislators what are attorneys) in settling insurance claims. Discussing an upcoming vote, a lobbyists was told to expect a certain legislator to vote against the industry. "Oh no," he replied. "I've helped that one settle too many cases." 5/

The need for a consumer voice before the state legislatures is manifest, as is the need to have such a voice before congress.

Mr. Chairman, I believe the California vote signals a new day for consumers of insurance in the country. We have political power for the first time and we want reform across the land. It is vital that part of the solution to the severe insurance problem this country faces -- periodic liability crises, auto insurance prices beyond reach, mounting health insurance costs, etc. -- include effective ways to get the consumer voice expertly represented in each state.

I would be happy to answer any questions you may have.

5/ The Invisible Bankers, Andrew Tobias, Simon & Schuster, 1982, p. 34.

THE ATLANTA CONSTITUTION

PAGE 14A, WEDNESDAY, NOVEMBER 23, 1988

Scandal of Insurance in Georgia

It has long been clear that Georgia's system of insurance regulation amounts to a working definition of political cronyism. But over the last three days, Atlanta Journal-Constitution business reporter Peter Mantius has laid out in devastating detail just how bad the situation is.

Simply put, the regulators do not regulate. Former commissioners and deputy commissioners immediately go to work for the industry as legal representatives, examiners and lobbyists. The present commissioner, Warren D. Evans, is their hopeless captive, and why shouldn't he be? The industry fills his campaign coffers every time an election comes around.

Warren D. Evans

The result for the public is rapidly escalating premiums, huge rate disparities, a high prevalence of questionable "products" (such as cancer insurance) and disproportionate profits for the industry.

The situation is hardly intractable, however.

Mr. Evans's resignation is long overdue. Making his post appointive rather than elective would at least lay responsibility for ineptitude and misfeasance squarely on the governor's doorstep. It is worth noting, however, that high-quality commissioners are hardly guaranteed by appointment. Indeed, the standard scam has been for a commissioner to resign in mid-term and arrange the appointment of an "appropriate" successor; he then turns his war chest over to the successor, thus assuring that no unseemly, reform-minded candidate sneaks into the pigpen. This was how Mr. Evans got the job.

If the commissioner continues to be elected — and Georgians seem wedded to the idea — forbidding candidates to receive contributions from the industry is essential.

Nothing is more important than the creation of an independent consumer advocate. Even if the commissioner were as independent as a polecat, the public is entitled to the same sort of advocacy as the industry. The consumer advocate should be responsible for handling the full range of consumer complaints, and should have the personnel and computers necessary to track the behavior of the state's 1,400 companies.

Other needed reforms include requiring the commissioner's prior approval of all rate hikes and, in auto insurance, updating Georgia's inadequate no-fault law. It would also be a good idea to mandate a decent interval between service on the commission and representing the industry.

These remedies have been kicking around for some time now — long enough for the General Assembly to demonstrate it wants no part of them. In California, where the populace can initiate changes in the law by state referendum, voters thumbed their nose at a $60 million industry ad campaign and approved a measure rolling back insurance rates by 20 percent. Although this avenue is not open to Georgians, they can raise a ruckus with their representatives and encourage candidates who are prepared to take on the industry.

For example, Sen. Lawrence "Bud" Stumbaugh (D-Stone Mountain), chairman of the Senate Insurance Committee, will be running for lieutenant governor in 1990 on a platform of insurance regulatory reform.

Unless the public, which spends a third more for insurance than it does on state income taxes and electricity combined, wakes up and smells the coffee, it will have no one but itself to blame for Georgia's scandal of insurance "regulation."

The **Chairman**. Ms. Meier.

STATEMENT OF MICHELLE MEIER, COUNSEL FOR GOVERNMENT AFFAIRS, CONSUMERS UNION, WASHINGTON, DC

Ms. **Meier**. I am Michelle Meier, with the Consumers Union, which is a nonprofit advocacy and consumer educational organization which was chartered 52 years ago now, in 1936.

I view this occasion as not only an opportunity to address the subject before us today but also to extend also our warm thanks to you, Senator Proxmire, for all the work you have done on behalf of consumers during your long tenure in the Senate.

I was not with Consumers Union in the heyday of consumer credit advocacy and legislation. The Consumers Union was very involved in the 1970's when you were working on Truth in Lending and RSPA.

And I am keenly aware, and have been during the past 4 years, working on amendments to Truth in Lending as new products have come along and new needs have been identified, that we have been building on the foundation that you set up for us with the Truth in Lending Act.

Consumers Union, as I stated, is basically chartered to provide impartial advice and education to consumers about both products and services. Although we have in one measure, under one measure of success, been very successful, we have a circulation that has been booming and is at an apex at this point or is at its height and continuing to grow.

We don't believe that Consumers Union and the other organizations who have similar tasks have been successful in sort of our broader goal, which is to make sure that the vast majority of consumers in the United States get the clear information they need to protect themselves and to make the market function competitively and fairly.

This failure to meet that goal is not due to failure of any one individual organization but just to the hugeness of the task.

Bob Hunter has just described some of the complications and barriers to competition and consumer protection in the insurance industry.

I have primarily focused on the credit area, personal credit, particularly mortgage credit, and will give you a couple of examples in that area of where the need for more information to supplement the work of Consumers Union and other organizations is very, very apparent.

As you know, in the credit area, the Truth in Lending Act is really the foundation of consumer protection. That act relies not on mandated prices but on disclosure. It assumes that the market will function competitively and consumers will be able to protect themselves if there is a standardized unit of cost with which the consumer can compare one credit product from another.

That law will not serve its purpose unless consumers know what that unit measure is and how to use it. There is some evidence that some consumers have an understanding of the APR concept and use it and can shop wisely.

But my experience in this area over the past few years indicates that the job is far less than completed in just getting this basic concept across to consumers. So, education is needed on these basic foundation concepts under which the Truth in Lending Act was enacted and holds some promise.

The APR concept is not as simple and the job of getting it across to consumers is not really as simple at it may seem, because between closed-end and open-ended credit, the APR term in figures is computed differently. I discuss this in my testimony.

HOME EQUITY LOANS

But briefly, the problem arises particularly in the home equity loan area, which is open-ended credit, which until the consumer closes the account has no fixed dollar amount involved, borrowed or not involved, and no fixed term. Given that fact of life, it is impossible for the APR to be the composite cost term that it is in closed-end credit.

The problem, of course, is that the term APR is used in both closed-end credits as a composite cost figure and in open-end credit where it cannot reflect a composite cost.

Consumers don't know this. Many people on the Hill don't know this. It is something that takes some effort to explain to consumers and is very important when consumers are putting their home on the line, attracted to a home equity loan because of the supposed low APR, when that APR doesn't even reflect the hundreds of dollars of upfront closing costs that the consumer may otherwise assume it does.

So, this is one area in the credit market where a financial consumers association could serve a very important educational function.

I have attached in my testimony an article by Jane Bryant Quinn, which includes a table showing what the nominal interest rate and amortized APR is associated with a number of home equity loans. And when you include all of the closing costs, what the composite APR would be, assuming variations in terms, it shows that you can go from a nominal noncomposite APR of 10 percent up to a 15-percent APR if you include composite costs.

That is the sort of information that consumers could get through a financial consumers association and even very simple descriptions of how the consumer can figure out the costs to him or her, given his particular circumstances and intended uses of the home equity line of credit.

In the credit market also, the products are as complicated as Bob Hunter just described, the products are on the insurance marekt. It wasn't long ago when mortgage credit primarily involved fixed-rate loans for 30 years. Shopping for price rate, and term was a relatively easy task because of the standardization.

With the advent of ARM's—adjustable-rate mortgages—in the early 1980's, this easy shopping effort is no longer easy at all. Consumers financial consumers associations, could explain some of the basic features of an ARM which, in my experience, although after years of working with them are not difficult to understand, are totally unknown and inexplicable to the basic consumer who frequently is being advised to take an ARM because of affordability by his or her real estate broker or mortgage lender.

Consumers need basic information about how an ARM is structured. The fact that it is usually—the adjustable rate—is usually tied to an index with a constant margin, this information is not understood now and could easily and importantly be given to consumers through the financial consumers association.

The home equity loan upsurge that attended the Tax Reform Act a couple of years ago is another very good example of how financial consumers associations could do wonders for consumers in the financial services market. It is an example of how the market evolves over time, introduces very complicated new products that are heavily promoted by the industry, appear good but need a relatively sophisticated, impartial organization to analyze, assess what are the pitfalls for the consumers, and to communicate the results of that research and analysis to the general population.

We did that work in association in connection with the home equity loan promotion over the last couple of years and found that there was a high level of consumer interest in the information we got.

We are very, very troubled by the development and structure of some of these products and thought that the work that we were able to do, although I am sure it was not enough in terms of reaching enough consumers, was very, very helpful in alerting consumers to some of the pitfalls and risks associated with these loans.

The work we did in that area, however, did require extensive surveying across the country. It also involved running some of the repayment formulas which varied greatly among home equity loan lenders through a computer software program to figure out how these repayment terms would amortize a loan, what it would do to repayment amounts, monthly payment amounts, how long it would protract the consumer's repayment term.

All of this type of work, using a computer software program is obviously not available to the individual consumer, but could be something that a financial consumer association could handle.

These are examples of areas in which we think education and dispersement of information in the financial services market could go a long way toward making that market fair for consumers and making consumers wiser shoppers.

We support across the country the development of these associations as a supplement to our work and the work of other organizations.

Thank you.

The CHAIRMAN. Thank you, Ms. Meier. Your timing was perfect.

[The complete prepared statement of Ms. Meier follows:]

TESTIMONY OF MICHELLE MEIER

COUNSEL FOR GOVERNMENT AFFAIRS

CONSUMERS UNION

on

FINANCIAL CONSUMERS ASSOCIATIONS

before the

SENATE BANKING COMMITTEE

December 14, 1988

Consumers Union* greatly appreciates the opportunity to appear before this committee, and its retiring Chairman, one last time during the 100th Congress. We view your interest in holding this hearing, Chairman Proxmire, in the closing days of your distinguished tenure in the Senate as a fitting climax to your many years of consumer advocacy.

The subjects before us today are the need for institutionalizing consumer advocacy organizations on a state level throughout the country, and the appropriateness of the financial consumers association model in achieving that goal. As a representative of Consumers Union, my testimony on these issues reflects the views and experience of a non-profit organization that has gathered and disseminated information to educate and inform consumers about consumer products and services through Consumer Reports magazine for the past 52 years. My testimony also reflects my organization's experience in promoting consumer interests through our national advocacy office in Washington, and in our regional advocacy offices in

Texas and California. Because most of my work is in the credit and deposit services area, my testimony emphasizes these areas as examples of the need for consumer eduction and advocacy in the financial services market generally.

THE NEED FOR CONSUMER EDUCATION AND ADVOCACY ORGANIZATIONS IN THE FINANCIAL SERVICES MARKET

The need for organizations to collect and disseminate information on consumer financial products and services is as great today as it was when Consumers Union was founded in 1936. Consumer protection has come along way since then, when truth-in-lending, fair credit billing, and fair credit reporting legislation were not even on the books. While laws on these and other subjects have helped consumers immeasurably, organizations such as ours have the equally important task of monitoring the actual impact of these laws on consumer products and services, and communicating our findings to individual consumers. Of course, consumer protection legislation has still barely touched some products and services -- such as mortgage brokerage and credit repair. It is clear to us that consumers have a continuing need for impartial advice in many areas that affect their basic financial well-being. Our testimony discusses only a few examples of where that need is pressing.

BASIC CREDIT TERMS CAN BE CONFUSING AND MISUNDERSTOOD

In the financial services area, much of the consumer protection legislation now on the books relies on disclosure and informed consumer shopping. The centerpiece of legislation to protect consumers in the credit market, of course, is the Truth-In-Lending Act, for which we owe a large debt to you, Mr. Chairman. As you know, that law relies heavily on standardizing the method of calculating and disclosing the cost of credit -- which the law refers to as the "annual percentage rate" (APR). The law assumes that consumers will be able to protect their hard-earned income from loan sharks by comparing loans on the basis of the APR.

Before this basic disclosure law can actually help consumers as intended, however, consumers need to be told, in clear terms, what it does. Consumers need to know that, for many purposes, the APR is the key term to consider in shopping for credit. Although there is some evidence that the APR concept is understood by some consumers, many are still in the dark. This is not an indictment of the value of standardization and disclosure legislation, but a strong reason to support local consumer organizations that can broadly disseminate educational materials to make it work.

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* Consumers Union, is a non-profit membership organization chartered in 1936 under the laws of the State of New York to provide information, education and counsel about consumer goods and services and the management of family income. Consumers Union income is derived soley from the sale of Consumer Reports, its other publications and films. Expenses of occasioanl public service efforts may be met, in part, by nonrestrictive, noncommercial contributions, grants and fees. In addition to reports on Consumers Union's own product testing, Consumer Reports, with approximately 3.7 million paid circulation, regularly carries articles on health, product safety, marketplace economics, and legislative, judicial, and regulatory actions which affect consumer welfare. Consumers Union's publications carry no advertising and receive no commercial support.

The task of educating consumers on the APR concept is not as easy as it may seem because the term is calculated differently for open-end credit and closed-end credit. In closed-end credit, the APR reflects the composite cost of the loan, including points and other costs in addition to interest. However, the annual percentage cost of a loan cannot be disclosed as a composite figure reflecting all costs until the lender knows what the term and borrowed amount will be, which are not known or knowable in advance in the case of revolving open-end credit. Thus, in open-end credit, the annual percentage cost disclosure only reflects the interest cost, but it is also described as the "APR."

This has the potential to confuse and mislead consumers, particularly when they rely on the APR to compare home equity loan products, which are open-ended, with closed-end loan products that may be used for the same purpose. For example, many home equity lenders promote their product as a cheaper alternative to a car loan, a credit card loan, or a personal loan. They point to the lower APR associated with their home equity product versus the higher APR associated with the alternative products. This is like comparing apples to oranges since the APR associated with the more traditional loan products generally reflects all costs, but the home equity line of credit APR does not reflect the significant closing and other costs associated with this product.

The fact that one term is used to describe both interest-only costs and composite costs is confusing, and it should be changed legislatively. Until then, however, there is a great need to educate consumers about this comparison shopping pitfall, and to show consumers thinking about a home equity loan, through explanation and specific example, how to calculate the composite APR that would apply to them. (The attached article by Jane Bryant Quinn illustrates the importance of this educational effort by showing the high composite APRs associated with home equity loans that may be legally advertised with low non-composite APRs.) Financial consumer associations could supplement the work of my organization and others in broadly disseminating this information--a goal that is fundamental to fulfill the consumer protection potential of the Truth-In-Lending Act.

THE MORTGAGE APPLICATION PROCESS IS COMPLICATED AND MISUNDERSTOOD

Our experience has shown that many consumers are very unfamiliar with the mortgage application process and are therefore vulnerable to many pitfalls and abuses in making their major financial purchase. Many of the problems consumers still face were brought to light in the extensive hearings you held in the seventies, Mr. Chairman, in connection with the

Real Estate Settlement Procedures Act. The anti-kickback provision of that law is premised on the widely-held belief that many of the products and services associated with home financing are sold in a market characterized by reverse competition. Because consumers infrequently enter the market, and because of its inherent complexities, the consumer relies on third parties to purchase the products and services for which he eventually pays. Even without direct kickbacks, the consumer is vulnerable to price gouging in this type of market.

Consumer education and advocacy could go a long way toward making the consumer an informed shopper rather than an innocent lamb in this market. For starters, consumers need to be informed of their basic right to receive the RESPA informational booklet upon applying for a mortgage loan. It seems, from my personal and professional experience, that many consumers never receive it and have never heard of it. With that information, and the advice and shoppers guides that could be provided by a financial consumer association, consumers would have the tools they need to shop for some of the products that they frequently rely on their lender or real estate agent to arrange for them -- title insurance, a settlement attorney, and hazard insurance.

Of course, consumers also need educational materials before they even apply for a mortgage so they can make a wise choice among mortgage lenders. One of the important points of distinction among lenders is the type of rate guarantee they offer potential applicants. During the past few years, there has been a phenomenal volume of complaints from consumers who did not get the price terms they had counted on in applying with a particular lender. Although we believe a large part of this recurring problem can be attributed to unfair lender practices that will not respond to disclosure solutions, some of the problem can be avoided if more consumers enter the market with clear information about industry norms and potential pitfalls.

For example, the mail we have received and the interviews we have conducted indicate that some consumers operate under the mistaken impression that the rate quoted upfront is automatically the rate they will get at closing, even absent an express promise to this effect. Other consumers innocently go along with what is a fairly common industry practice of locking in the interest rate orally. Educated consumers would know that the best lock-in is a written lock-in, and one that spoke in no uncertain terms, unlike the ambiguous ones we have seen.

With the advent of computerized loan networks in which real estate brokers double as mortgage brokers, there is a growing need for educating consumers about how to shop for a mortgage lender. Consumers tend to rely on the real estate broker with whom they worked in purchasing their home to get referrals for the best mortgage lender to finance it. Consumers need to be educated to approach that broker with caution since referrals by the broker may benefit the broker's own financial interests more than the consumer's. In addition to educating consumers about this potential conflict of interest, financial consumer associations could direct consumers to an impartial mortgage loan database service, which are increasingly available in local markets throughout the country.

MANY MORTGAGE AND OTHER CREDIT PRODUCTS INVOLVE COMPLICATED FEATURES -- ARMS AND HELS

The need for organizations to advise consumers in the mortgage and other credit markets results from the growing complexity of the credit products that are now being offered. Before applying to any particular mortgage lender, a consumer should have a fairly good idea about the types of loans available and how they vary in terms of downpayment, monthly costs, and total costs. Consumers primarily constrained by upfront costs, as many first time buyers are, need good information on FHA guarantee requirements and benefits. Consumers on tight monthly budgets need clear information about adjustable rate mortgages, since many of them will be steered to them by real estate brokers or mortgage lenders as an affordable alternative to a fixed-rate loan. A financial consumer association could provide this information.

Again, as a starter, a financial consumers association could urge consumers to obtain and digest the educational brochure on ARMs prepared by the federal regulatory agencies, which all ARM lenders must now provide upon request. We believe this brochure is a good, clear description of the basic features of an ARM but it will not serve its purpose if the fact of its availability and usefulness is not widely known.

Most home equity loan products combine the complexity and risk of an ARM with other unusual and risky features, such as balloon payments, protracted repayment periods, bifurcated repayment formulas, and, for a few more months, clauses allowing the lender to change terms unilaterally. We know this now. But, when lenders first began to heavily promote these products after the Tax Reform Act of 1986, we ourselves had great difficulty figuring out how they "worked." After time-consuming surveys and interviews, we finally got reliable information on the major features of these products, and how they varied among lenders. We found there was a bewildering variety of features associated with these loans -- including an assortment of different repayment plans. We ran several loan amount examples through amortization software programs to analyze the practical implications of some common repayment plans for consumers. The results were troubling. For example, we found that one minimum monthly repayment formula would not fully amortize a $25,000 loan for 49 years, almost half a century. We issued a report cautioning consumers that the "easy" monthly payments promised by some home equity lenders could also string them along as debtors for decades.

Obviously, most consumers do not have the equipment, time, or ability to analyze credit products in such depth. The sudden upsurge in home equity marketing, and the risk and complexity associated with many of the products, demonstrate the serious need for organizations to monitor the evolving credit market, analyze the products being offered, and report their findings to consumers.

WILL IT MAKE A DIFFERENCE

It is clear that the financial services market is complicated. Unless consumers have the information they need to "make sense" out of the market and the products available in it, they will not be able to protect themselves and their pocketbook, and the market will not function competitively.

Although we believe consumer education and advocacy can be achieved through various models, including school programs, government brochures, state and federal legislation, and national magazines, we strongly support the goal of establishing a financial consumer association in every state in the country. Although the educational and advocacy functions they could serve may already be partially served in some states by other private or public organizations, in all states there are still unmet needs for effective consumer advocacy. Even where groups are already active in some states, the financial consumer association could supplement, rather than duplicate, their work. There is obviously an overwhelming abundance of issue areas in which consumer advocacy and education is needed.

Some may question whether consumers will use the information and advice that a consumer financial association could provide. Our sense is that educational efforts in the financial services market would not fall on deaf ears. One measure of consumer demand for wise shopping advice is the success of Consumer Reports, to which over 3.7 million consumers across the country subscribe. Those who do not subscribe periodically consult the magazine in their public library to make an informed shopping decision.

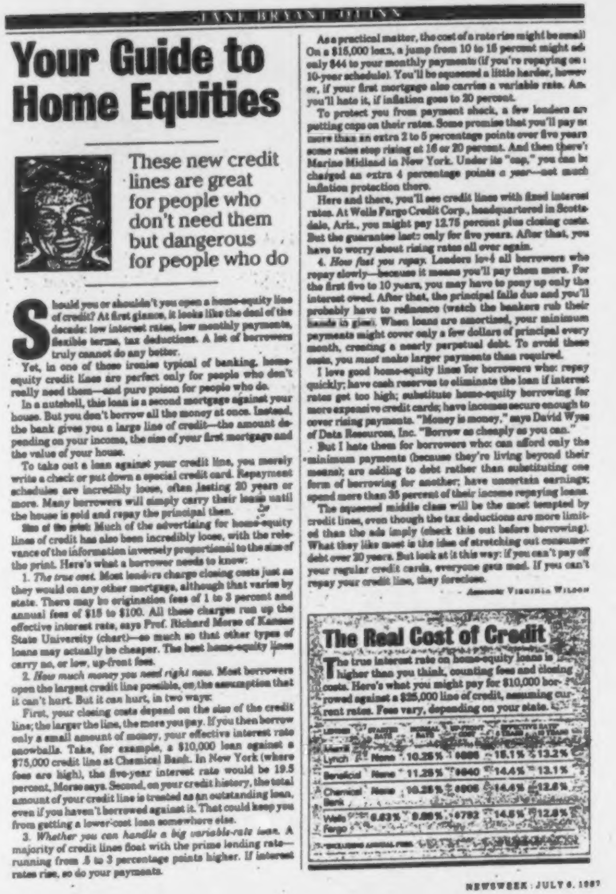
We have found that our readers are particularly interested in our coverage of financial services issues. In the past 5 years, we have written articles on credit cards, ARMs, credit repair agencies, life insurance, long-term care insurance, home equity loans, bank accounts, homeowner's insurance, financial planners and more.

We conduct a monthly survey to determine the interest these articles generate among our readers. The vast majority of these financial services stories received at least average readership ratings, and many received extraordinarily high ratings.

We are an organization that relies almost exclusively on the income from Consumer Reports for our financial well-being. We have and will continue to report on financial services issues because our readers want us to.

Although we believe that a national magazine like ours serves a unique demand for product and service information for consumers, its usefulness as a shoppers guide in the financial services area has some inherent limitations that would not apply to the educational materials of more locally-based organizations. Because some financial products and services are not available nationally, they are not included in the surveys and ratings we do for our national magazine. Some product types are offered by a vast number of providers and therefore the products of a large percentage of them may not be reported in our magazine. Our surveys of deposit accounts, for example, can only include a small sample of institutions in any given metropolitan area. A magazine focussing on a smaller market area could prepare a shoppers guide that comprehensively covered all providers in that market area.

In closing, we believe that financial consumer associations are needed to supplement our own educational and advocacy efforts and that of others. Many pressing consumer problems in the financial services market remain unaddressed because the existing organizations simply lack the resources to closely analyze all issues and report on them to consumers. We would expect the financial services industry to support this effort to make more consumers informed consumers.



JANE BRYANT QUINN

Your Guide to Home Equities

These new credit lines are great for people who don't need them but dangerous for people who do

Should you or shouldn't you open a home-equity line of credit? At first glance, it looks like the deal of the decade: low interest rates, low monthly payments, flexible terms, tax deductions. A lot of borrowers truly cannot do any better.

Yet, in one of those ironies typical of banking, home-equity credit lines are perfect only for people who don't really need them—and pure poison for people who do.

In a nutshell, this loan is a second mortgage against your house. But you don't borrow all the money at once. Instead, the bank gives you a large line of credit—the amount depending on your income, the size of your first mortgage and the value of your house.

To take out a loan against your credit line, you merely write a check or put down a special credit card. Repayment schedules are incredibly loose, often lasting 20 years or more. Many borrowers will simply carry their loans until the house is sold and repay the principal then.

Size of the print: Much of the advertising for home-equity lines of credit has also been incredibly loose, with the relevance of the information inversely proportional to the size of the print. Here's what a borrower needs to know:

1. *The true cost.* Most lenders charge closing costs just as they would on any other mortgage, although that varies by state. There may be origination fees of 1 to 3 percent and annual fees of $15 to $100. All these charges run up the effective interest rate, says Prof. Richard Morse of Kansas State University (chart)—so much so that other types of loans may actually be cheaper. The best home-equity lines carry no, or low, up-front fees.

2. *How much money you need right now.* Most borrowers open the largest credit line possible, on the assumption that it can't hurt. But it can hurt, in two ways:

First, your closing costs depend on the size of the credit line; the larger the line, the more you pay. If you then borrow only a small amount of money, your effective interest rate snowballs. Take, for example, a $10,000 loan against a $75,000 credit line at Chemical Bank. In New York (where fees are high), the five-year interest rate would be 19.5 percent, Morse says. Second, on your credit history, the total amount of your credit line is treated as an outstanding loan, even if you haven't borrowed against it. That could keep you from getting a lower-cost loan somewhere else.

3. *Whether you can handle a big variable-rate loan.* A majority of credit lines float with the prime lending rate—running from .5 to 3 percentage points higher. If interest rates rise, so do your payments.

As a practical matter, the cost of a rate rise might be small. On a $15,000 loan, a jump from 10 to 15 percent might add only $44 to your monthly payments (if you're repaying on a 10-year schedule). You'll be squeezed a little harder, however, if your first mortgage also carries a variable rate. And you'll hate it, if inflation goes to 20 percent.

To protect you from payment shock, a few lenders are putting caps on their rates. Some promise that you'll pay no more than an extra 2 to 5 percentage points over five years; some rates stop rising at 16 or 20 percent. And then there's Marine Midland in New York. Under its "cap," you can be charged an extra 4 percentage points *a year*—not much inflation protection there.

Here and there, you'll see credit lines with fixed interest rates. At Wells Fargo Credit Corp., headquartered in Scottsdale, Ariz., you might pay 12.75 percent plus closing costs. But the guarantee lasts only for five years. After that, you have to worry about rising rates all over again.

4. *How fast you repay.* Lenders love all borrowers who repay slowly—because it means you'll pay them more. For the first five to 10 years, you may have to pony up only the interest owed. After that, the principal falls due and you'll probably have to refinance (watch the bankers rub their hands in glee). When loans are amortized, your minimum payments might cover only a few dollars of principal every month, creating a nearly perpetual debt. To avoid these costs, you *must* make larger payments than required.

I love good home-equity lines for borrowers who: repay quickly; have cash reserves to eliminate the loan if interest rates get too high; substitute home-equity borrowing for more expensive credit cards; have incomes secure enough to cover rising payments. "Money is money," says David Wyss of Data Resources, Inc. "Borrow as cheaply as you can."

But I hate them for borrowers who: can afford only the minimum payments (because they're living beyond their means); are adding to debt rather than substituting one form of borrowing for another; have uncertain earnings; spend more than 35 percent of their income repaying loans.

The squeezed middle class will be the most tempted by credit lines, even though the tax deductions are more limited than the ads imply (check this out before borrowing). What they like most is the idea of stretching out consumer debt over 20 years. But look at it this way: if you can't pay off your regular credit cards, everyone gets mad. If you can't repay your credit line, they foreclose.

Associate: VIRGINIA WILSON

The Real Cost of Credit

The true interest rate on home-equity loans is higher than you think, counting fees and closing costs. Here's what you might pay for $10,000 borrowed against a $25,000 line of credit, assuming current rates. Fees vary, depending on your state.

LENDER	STARTER RATE	NORMAL RATE	UP-FRONT COST	EFFECTIVE RATE* [illegible]	[illegible]
Merrill Lynch	None	10.25%	[illegible]	15.1%	13.2%
Beneficial	None	11.25%	[illegible]	14.4%	13.1%
Chemical Bank	None	10.25%	[illegible]	14.4%	12.6%
Wells Fargo	[illegible]	[illegible]	[illegible]	14.5%	12.8%

*EXCLUDING ANNUAL FEES [illegible]

NEWSWEEK : JULY 6, 1987

The CHAIRMAN. Our final witness is Blair Horner, legislative director for the NYPIRG.

Mr. HORNER. I am sorry to be late. Sometime coming from the north the weather does not cooperate with transportation.

I believe Nadler was originally scheduled to come, and I would like to introduce a copy of the bill that he sponsors, State legislation that created the financial consumers association.

The CHAIRMAN. We had his statement put in the record earlier.

Mr. HORNER. Fine.

STATEMENT OF BLAIR HORNER, LEGISLATIVE DIRECTOR, NYPIRG, ALBANY, NY

Mr. HORNER. My name is Blair Horner. I am legislative director of NYPIRG, the New York Public Interest Research Group, a New York-based organization that works on a wide variety of consumer protection and environmental preservation issues. NYPIRG has been concerned about the issues of financial services for years.

And our observations, in short, have been that by and large consumers are confused by the array of financial services and that overall consumers are poorly represented in New York State.

I say this even though New York is probably considered relatively innovative when it come to regulation.

Yet even New York consumers are often, as I mentioned, ill represented, uniformed about financial services. And some of this has been documented by a recent report put out by New York State Senator Franz Leichter.

He did a survey of constituents in New York City and found that overall some of the overall findings of his study were that consumers were confused, that they were disturbed by the lack of adequate information, and that almost in every case respondents to the survey wanted more government regulation because of their growing disenchantment with the way that financial services were handled in the State.

So, some of our feelings have been not only our own observations but have been documented by independent research. And what I would like to do from my testimony here is just give a couple of examples of how problems for consumers can fit New York State consumers, some ways to illuminate some of the problems we have there.

A recent report put out by the New York State Consumer Protection Board, called "Escrow Abuses of Taxing Problems for Homeowners," which came out in September of this year, concluded that liens had been placed on thousands of homeowners in New York because banks had deliberately delayed forwarding tax payments from their escrow accounts.

Moreover, this problem had been occurring over a period of years and is so severe that in some places, actually in Westchester County, half of all tax payments are late due to what the report called "bank negligence."

Now, that kind of impact, we think, financial consumers associations, through its education potential consumer alert, could have created protection for consumers and then this situation would not have occurred over a period of years.

Another example that I cite in my testimony deals with in some ways the issues of limitation of branches for banks in New York City. One example, Chemical Bank in New York City recently—last week—unveiled a plan for a section of Brooklyn and based on an internal survey which they will not as yet release to the public, they decided that customers using that branch with accounts totalling less than $25,000 will only have access to an ATM.

Now, that is a particularly striking example of what we consider in many ways to be the growing insensitivity of banks to some of the needs of lower- and moderate-income neighborhoods in urban areas. And in some ways, I think that highlights one of those problems.

Another example that I would just like to briefly mention and touch on is even in circumstances where NYPIRG and other citizen organizations have actually been successful in getting laws passed that we think create additional protections for consumers, we sometimes can lose out in the law's implementation.

For example, in 1984, New York State granted for State-chartered banks a wide array of new powers and central to that was the power for State-chartered banks to invest up to 5 percent of their assets in real estate. And as a gesture, a quid pro quo on that, they argued that they would increase the amount of CRA protection and link the ranking NCRA with the bank's real estate investment powers.

They came up with a new rating system, a one-through-five system, one being the best, five being the worst, and this new rating system was going to be used to hook it into real estate powers as a way to kind of—a carrot and a stick, I guess, for that matter—to try to get banks to do more investing in low- and moderate-income areas.

Now, what happened, at least from the data we have seen through 1986, is that virtually no banks got rankings of three, four, and five, that in fact most of them were getting two. In one case, a Manufacturers Hanover Trust, which had closed 19 branches between 1984 and 1986, they actually got a ranking of one: as "excellent."

A second promise was that the banking department would require small business disclosure in the same way the disclosure is done in the CRA. And what happened was that while they promised to do that, they absolutely reneged on it and to this day New York State has no small business loan disclosure.

Now, I mention that as an example, I think, of where we were able—with our limited resources—able to impact on an issue and yet over the long term; not having that kind of ongoing, day-in, day-out presence on an issue, were unable to—I don't know if we would have been able—but we certainly were unable to impact on the process in a way that would have come out with a good program.

And in some ways this is highlighted with what happened to us in 1988. That law, that real estate investment power, is up for renewal this year. And this past spring, their answer to us was, "We would like to do what you would like us to do, but we don't have the resources to make it happen."

The banking department just does not physically have the resources to make that happen. So, moreover, while it was difficult—just to highlight that—it was difficult because they didn't have the resources and moreover when we actually requested information on where they had done their investments from 1984 to 1988, and the New York State Assembly Banking Committee asked for that information, they couldn't get it, originally because the bank department did not have the resources to pull that information together in a way that we could use.

Eventually we did get the information. We found that in many cases the low- and moderate-income areas invested were really the areas that were becoming gentrified and not the traditional low- and moderate-income neighborhood that one would hope that these powers would be used for.

So, those are some examples of policy issue that we have dealt with and in many ways the problems come down to issues of, in some ways, power.

Financial service institutions, for example, in 1987 spent nearly $1.5 million on lobbying fees alone—not on campaign conributions or anything else, just on lobbying fees.

And when you match that with the efforts of the State's Consumer Protection Board, the State's Attorney General, or NYPIRG, or community organizations that are interested in specific neighborhood investment efforts, the scales are just tilted tremendously in favor of the industry. And it makes it very difficult for us to again follow bills day to day and impact on these issues.

So, we have tried to deal with this and have other organizations as well as State legislators, for example, as I mentioned earlier, they have tried to come up with consumer guides to educate the consumer in a way, the theory being that if the consumer is educated, a lot of these things that become problems that require regulations, laws, they don't become problems because the consumer can advocate for him or her self.

ESCROW ACCOUNTS

For example, on the escrow account problem, if consumers have been cognizant of that problem, this may not have gone on for years. But the problems that we face—and I don't want to echo what other prople have said—but we really don't have the resources to make that happen. As an organization, as even a coalition of organizations, we just don't have the resources.

And to put it in some context, NYPIRG is a relatively large organization on a State basis, probably one of the largest State-based organizations in the country. Over 80 staff, over $2 million budget, 20 offices statewide. And even we cannot follow these issues. We can be effective on selected instances, but we cannot necessarily have an impact day to day over the long period.

So, this is where we come out in support of the creation of financial consumers association in New York. To us that would fill the gap. It would help tilt the balance, tilt the scale to make a better balance between consumers and financial institutions.

And again, to go back to the education component, we think that the FCA would have the ability to really get that information to the consumers. The more educated the consumers the more likely they are to advocate on their own behalf. So, we think this is an important component.

And I notice I am getting the yellow light, so I won't go into more detail on this, but we think that the education of consumers is important, and we think the issues of Federal preemption are important for us too because that is often used in the State legislature as an excuse to do nothing. We think that we can run into a problem with our FCA, and in fact I would elaborate on this.

In 1984, Governor Cuomo established—supported the notion, the general notion, of creation of an FCA. He directed the banking department to develop rules to do that, or a bill. And what happened was that bill was not developed because the banking department argued it on preemption. That is our overall concern on this.

Thank you.

The CHAIRMAN. Let me start off with a question for you and try to relate the enormous increase in household debt, which has been ignored, I think, by the Congress and hasn't been discussed in the press. We are all very conscious of the huge Federal debt of $2.6 trillion. The household debt is over $3 trillion. It has come on exactly at the time when savings have diminished.

It seems to me it makes households extremely vulnerable. I saw data the other day that indicated that whereas a few years ago the average cost of owning your own home, including mortgage interest and taxes and so forth, was about 15 percent of income. Now, for people buying their home for the first time it is around 40 percent of income.

Obviously, if one of the two principal wage earners in the family or income earners in the family loses their job, in many cases they lose their house.

Now, one element that has not been discussed here at all, and it is a little unfair perhaps to ask you because this wasn't the main purpose of your testimony, but it would be very useful to me; is there any way that you or your colleagues advise people on the burden of their debt, the relationship of their debt to savings and their income?

Mr. HORNER. Just a couple of comments. I have a couple of general comments, and then I can deal with the specifics.

We get calls all the time on what should we do, what is the difference between various credit card packages, what is the difference in mortgage packages.

And actually I just bought a house a year ago, and I am reasonably well informed on this issue. And to me it was almost mind-boggling. I couldn't figure it all out.

So, we get these calls. Our citizen members call us and people call us in general. We don't necessarily—as an organization, I don't think that we feel comfortable with our on-staff—current on-staff—expertise to tell people how they should manage their own debt.

We do try to direct them to the appropriate agencies that could help them.

The CHAIRMAN. Which are what?

Mr. HORNER. In New York State, either the banking department or the Consumer Protection Board or the Attorney General. Those are the ones that we generally, when people call in, we generally steer them to deal with those various agencies.

The banking department, for example, has less staff now than it did 4 years ago, and yet it probably has double the number of phone calls that it gets.

So, all of these things together, I am not quite sure if I am answering this directly. Since we don't really counsel people on their debt concerns. This is precisely why I think you need something like an FCA.

Certainly, in my case, when I was looking at buying a house, it would have been very helpful to me to be able to go to one place, get advice that would make sense in a really clear way and I know that there is no personal ax to grind or there is any kind of hidden agenda being played out on me that it would be very easy for me to be able to compare things.

And while those kind of brochures and things may exist in the State Banking Department, they are difficult often for the average person to understand. And my bet would be that 90 percent of the citizens in New York don't even know that they exist.

Again, if you had something like an FCA, they have a self-interest, I think, in marketing these shoppers guides because I think it would be the most important and popular thing that they would do. And therefore, unlike a bureaucracy, I think that they would advocate that and try to disseminate that information in a way that we don't get right now.

So, maybe it is a long answer to a short question, but since we don't really counsel the people individually on those things——

The CHAIRMAN. What I am trying to say is this is a time when the financial services intelligence, understanding is more important than ever because the debt is so great, because it is such a huge proportion of people's income, far more than I think most experts have talked about or realized.

Mr. Hunter, in your testimony you criticize insurers for misleading TV ads that prey on fear and love. A few States have outlawed those ads. Is there a mechanism to prevent the FCA from engaging in counter-propaganda, such as unfair sales on the insurance companies and so forth?

Mr. HUNTER. Insurance companies are not supposed to criticize each other under State laws. Consumer groups are pretty much free——

The CHAIRMAN. Suppose FCA goes after the insurance companies, attacks them.

Mr. HUNTER. In an unfair way? A misleading way? Or an honest way?

The CHAIRMAN. They wouldn't think it is unfair, but I am sure the insurance companies would think it was unfair.

Mr. HUNTER. Insurance companies, some insurance companies are vulnerable to attack because they are doing things that are inappropriate, as has been documented, for example, by Congressman Pepper in Medigap sales. Even other insurance companies say they are happy to see some of the attacks on those.

I don't believe that there are any laws on the books that would prohibit a financial consumers association from putting out lists of companies or products to avoid. We put out lists of products to avoid, not to buy specific products. We have done that over the years, either by category and sometimes even by company.

We do this with some of the higher-priced companies. In South Carolina we put out a bulletin on who the five cheapest auto insurers were and who the five most expensive auto insurers were, and within weeks the five most expensive auto insurers had come in for price reductions.

So, the power in the information——

the CHAIRMAN. Is there any information to determine, is there any mechanism for determining whether the ads that you would run or the statements that you would make are truthful, accurate, and so forth?

Mr. HUNTER. Surely. We are subject to criticism, both public criticism by the company that we would say was a high-priced company if we were wrong, and they could use whatever legal powers they had to get us to retract or correct.

The CHAIRMAN. Is there a good, positive, constructive debate going on that way?

PROPOSITION 103

Mr. HUNTER. There is the beginning of one. The problem is that it is one-sided. Proposition 103 is a classic example. In passing it, the people raised about $2 million to pass it. In fact, they didn't quite raise $2 million, but spent $2 million, and they are still in the process of trying to raise the rest.

The insurance industry spent, to try to defeat proposition 103, $75 million. Now, the $75 million—they said so—will be passed back to consumers in the form of higher insurance prices.

So, there is a terrible imbalance when the consumers have to go into debt to raise $2 million to try——

The CHAIRMAN. In that case, the little guy won.

Mr. HUNTER. The little guy won. And as Ralph Nader has said, it is really something when you can spend one penny to, in effect, the dollar and win. And that is what has happened.

And what we are after with financial consumers associations is a little bit of balance, but we are not even asking for a tap into our own money, even though they have a way of tapping us for the $75 million.

We are asking for a right to communicate with each other, and that seems like we are not asking for a tremendous amount.

The CHAIRMAN. Ms. Meier, in the testimony that New York Assemblyman Nadler has supplied us—and we have put it in the record—he says the following, and I want to quote:

> Some journalists, such as Sylvia Porter, will regularly feature financial products or critique or recommend alternatives. These features are often made to appeal primarily to the better educated and the more affluent reader. Similarly, magazines such as Consumer Reports, appeal to the more upscale consumer. There is a shortage of nuts-and-bolts, easy-to-use information.

Now, I have the highest regard for Consumer Reports and the Consumers Union. But do you think that the FCA could improve education of lower-income consumers? And if so, how?

Ms. MEIER. I think that as Mr. Nadler and Ralph Nader said earlier, it is true Consumer Reports is primarily targeted to and read by a middle-class audience. We do, having looked at the demographic profile of our readership, it is not exclusively middle-class, but that is the bulk of our readers: from the middle class.

We are also a national magazine which sets certain inherent limitations on the functions we can serve. We also are not primarily directed toward reporting on financial services issues. Our readers are interested in the taste-test results of our food articles, our automobile—our April issue, which is our automobile issue. A lot of our readers are interested in their major appliance purchases and consult Consumer Reports for that.

So, the success of Consumers Union, Consumer Reports, the broad circulation it has, is due to the fact that we have a diverse relationship that have interests that are mutually exclusive. If we are talking about something similar in the local market, I am not sure it could survive the way Consumers Union survives without membership contribution simply on the revenue from the literature that it gives out.

So, there is that difference. The subject matters we address would be different. And also, the difference between a national magazine and a more localized magazine would make Consumers Union and the financial consumers associations not overlapping at all in function.

We do not survey routinely local markets. When we do, it is to get a flavor for local markets across the country, but not to delve in depth the way a financial consumers association could do to provide shoppers guides for consumers in their own market. That is a very, very important function that we don't serve.

The **Chairman**. Mr. Horner, we hear that there is a dearth of good information on financial services. Is the media improving their coverage? I have been impressed by the quality of writing in the media on business matters and financial matters. I think it is greatly improved over the years. I think it is quite perceptive.

There is greater coverage of such items as adjustable-rate mortgages, credit card rates and so forth. Why is that not sufficient?

Mr. **Horner**. I think again, from our perspective in New York, much of the information that is available doesn't necessarily get to the consumer because I think at a certain level people are kind of buried with information particularly——

ARE CONSUMERS OVERBURDENED WITH INFORMATION?

The **Chairman**. Right. And the question has come up before, before you came in: Aren't we going to bury them under even more information? How will this get through, in view of the fact that they have got too much now, perhaps?

Mr. **Horner**. I think there is a packaging difference in how the information would get out. I think there is a difference between how—I don't know what anyone else said on this—I think there is a difference between how an FCA would put its materials together in a way that would be easily readable and that would come to people separately from just turning the page in the paper, where they may find—or an article in a magazine—where they may find the kind of information that would be available in an FCA brochure or publication, but would be packaged in a way that would be more readable, would be something that they would be separate from just their regular newspaper or magazine or whatever.

Again, I think that because it is in FCA's self-interest to get this information or would be in their self-interest because again I believe this is going to be the most popular thing that they do, that when they put that kind of information together, they are going to be thinking about how will people be able to use it, whereas in many cases now information that is written and articles that are written may be as authoritative and covered just as well, but it isn't written in a style that it is going to jump off the page in the newspaper to be able to be used.

I think a lot of people look at things like ads to get some of their information on financial services, and those tend to be, you know, very unilluminating and shadowy in some of the nuances of what they have.

So, I agree that there is probably more information available if you could find it. So, I think that the FCA would be able to package it differently, and I think it would be put out in a way that would be more regular, in a way that people would come to expect that kind of information.

The CHAIRMAN. I don't want to be shocking in this area, but it seems to me that something as simpleminded and kind of obviously appealing to the public is a comic strip, illustrating some simple matter. You know how popular those are, how easy they are to read, how people almost always read those even if they don't read other material. Or applying the same kind of visuals, some kind of TV program.

Have you thought of trying to get any kind of cooperation from TV stations to run this as a public service?

PUBLIC SERVICE TV ADS

Mr. HORNER. When we put together our bankers guides, for example—we put out maybe a handful over the last few years—and our ability to pull those together and to get those out really in some ways is a function of our on-staff expertise at the time.

NYPIRG works on a variety of different issues, and in some ways some of the issues that we're able to do the best work in is a function of whether or not the staff person is willing to continue to work long hours, low pay, and continue to do that.

Once that person leaves, they may or may not be replaced by somebody with the same expertise.

So, I think that is where we run into the problems, beyond the resource question, of being able to pull together the information.

Many times, the local media—for example, in New York City you can be buried by the real news of what is happening in the day and then people would not necessarily get that information that we are trying to put out in the bankers guide or a shoppers guide.

The CHAIRMAN. Mr. Hunter?

Mr. HUNTER. It is compounded by the problem, the fact that a lot of this does not lend itself to print-type distribution. For example, auto insurance is so complex that a young person——

The CHAIRMAN. Like it or not, we are in the television age, and a lot of us don't like it, but that's it. People get much of their news from television.

Mr. HUNTER. And computer age. And if you could get a printout of the ten cheapest companies and what their service records were, that would be something that would be worth something to you, to start your shopping work.

The CHAIRMAN. Mr. Hunter, as you know, the insurance lobby—you are an expert on this, as is Mr. Nader—is a formidable group. You have documented the strength at the State level, and I know you are just as familiar with the Federal power.

As you point out in your testimony, Congress defanged the Federal Trade Commission's already dull insurance oversight teeth after the agency published an unflattering study on the whole life insurance.

Given the track record, perhaps it is best that Congress not consider insurance issues or that the California vote would change.

Mr. HUNTER. The insurance companies say they like the State system and they would rather be regulated by 50 monkeys than King Kong. [Laughter.]

Proposition 103 led the way in that direction, and we think that the financial consumers associations lends itself to empowering people through competition to find out who the cheap companies are and to act on it.

I don't think the Federal Government is about to take over the regulation of the insurance business, even though the insurance companies may change their minds about wanting it or not, based upon 103.

The CHAIRMAN. Ms. Meier, your organization has helped consumers make informed decisions about purchases for five decades. Fifty years, I think you said, since 1936. Yours is a private group that does not rely on any special government subsidy or support.

Embedded in the FCA proposal is a form of public financing. The notice requirement is, after all, a funding mechanism. Do you think it is proper for an advocacy group of any kind to receive public funding, publicly forced funding?

PUBLIC FUNDING

Ms. MEIER. I certainly think it is appropriate. I don't have any problems with that. I had not really conceived of the FCA as receiving public funding.

The CHAIRMAN. It doesn't receive public funding in the usual sense. As you know, by public requirement, as I understand it—and I will be corrected if I am wrong—the banks would be required to include in their statement four times a year a kind of solicitation for the consumer groups, for this consumer group, FCA.

Ms. MEIER. However, the money never was the Government's money. It is the industry's. To the extent there is any cost to the industry——

The CHAIRMAN. Something even more forceful and controversial, the Government's money would not get as much of a fight. But because it isn't Government's money, because it is the money really of this private group, we are telling them, like it or not, you have to permit this statement to go.

There is a very strong case for it. The case against it is the case that some people would argue that this is an interference with freedom of speech.

Ms. **Meier**. To the extent that, analyzing it as public financing, and the appropriateness of public financing to create a consumer advocacy organization, our response to the appropriateness is yes, we think it is appropriate in this day and age, with budget deficits, et cetera.

One also always has to tread lightly in recommending such Government financing of anything. And it is a proposal that in another way of looking at it isn't involving the public financing, it is imposing, it is asking the industry to make a small—very, very small—contribution toward getting information to the consumer, as an all-American, apple-pie way, with an all-American way that we think is definitely appropriate and very much needed.

The **Chairman**. Mr. Hunter, there is, of course, an analogy that occurs to everybody: That cigarette companies are required to carry the Surgeon General's warning, which, of course, is against their interest.

This is quite different, but nevertheless, I can see at least an element of fracturing freedom of speech in this case. That was addressed very well by the previous panel.

Mr. **Hunter**. There is no cost, though, to the insurance industry, because under the proposal there is a payback provision by the financial consumers associations of costs. So, there is no out-of-pocket cost to the insurance industry.

It is a funny kind of thing. If it was an out-of-pocket cost, they would bill it back to the consumer. But there isn't an out-of-pocket cost, because it is paid back. All that is gained, as I said earlier, is the right of consumers to communicate with each other through the bill.

The **Chairman**. I understand Ken McLean just mentioned to me that this could be something that could be $100 million a year. It is a considerable benefit conferred, of course, on the public, but via your advocacy group. And isn't there a possibility that this could be turned and used in quite a different way and one that might be destructive of consumer groups?

Ms. **Meier**. I don't believe so. It is controlled by a democratic process. That is spelled out in the legislation where elected Representatives of the members of—by congressional district—would control the use of any funds that were provided. And the bill also would lay out what things had to be done.

The **Chairman**. The State legislature, subject to the same PAC pressures and so forth, that the Members of Congress are, it would establish the rules, tell them what they can do and what they can't do?

Mr. **Hunter**. Yes. The rules would be established in the law.

The **Chairman**. That is a democratic group, but it is a democratic group that goes through the filtration of political action committees—with a vengence.

In our State I noticed now that the members of the State Assembly on the average spend $40,000 to be reelected. It is peanuts here, but it is a lot of money in State legislatures, and that money is important. Money talks.

Mr. **Hunter**. I don't believe we can have PAC's getting into the election process and the financial consumer would have an interest in making sure they didn't vote for such people.

Ms. **Meier**. In fact, the law that was proposed, and I guess is still pending in the State of New York, has particular provisions requiring the board of directors of financial consumers associations not to have any financial conflict of interest, which is similar to the boards of directors of Consumers Union and employees of Consumers Union who have to fill out nonconflict-of-interest statements that get notarized every year or two that a financial consumers association would function similarly. And in no way could I imagine any PAC influence on the financial consumers associations that would be analogous to a supposedly democratically run State legislature.

Mr. **Horner**. Just to add on that, there are limitations in the bill about how much campaign contributions an individual could give to a candidate. It is $250, which is pretty low.

But also, anyone running for the board of directors of FCA would be subject to the same disclosure requirements and ethics rules that New York State currently has. So, there are some campaign limitations.

As Michelle mentioned, there is also the limitation that no money can be accepted by a financial service organization and there are the disclosure requirements. There are some mechanisms built into the bill that would——

The **Chairman**. The mechanisms in the bill are fine. What you have proposed is fine. But I just have the feeling that this is likely to be corrected as time goes on. It will take constant vigilance on your part. But I just have the feeling that this is likely to be corrupted as time goes on. It will take constant vigilance on your part to keep it clean and keep it from being misused.

Mr. Horner, let me ask you this. This committee has seen many lower-income people in the cities are not served by banks or by mortgage companies when it comes to home loans, and many times the loans are more expensive.

Do you believe that there is special need among low-income groups for financial information; and if so, how can we get it to them in view of the fact that their literacy is often a problem?

LOW INCOME AND LITERACY

Mr. **Horner**. It is a very difficult question. We have worked with a lot of community organizations, ten organizations, neighborhood associations in New York City—scores, hundreds, a hundred probably. Many of those organizations look to us for expertise and guidance: One, on the political process and also on some of the technical issues that are being discussed in the legislation that relate to them, particularly the availability of financial services as well as investment.

So, those organizations to me would be the starting point of how we would try to get that information out to the actual, you know, mom-and-pop homeowner and renter in the area.

So, I think the first thing that the FCA would probably be doing would be to work with those people with the organizations themselves that represent tenant and neighborhood groups to get that information out. And I think that is the first step that we could start on.

The CHAIRMAN. The New York State Banking Department published a consumer guide to bank services. It was discontinued, as you know, apparently because of cost.

As a consumer advocate, you've probably published similar brochures, and what is the cost of such a product, and how useful is it, and what do you think of the impact of the consumer guide?

Mr. HORNER. I believe we did make a phone call to follow up on the consumer guide. It appears that they came out with one in September and they are planning on coming out with one again next year. It is unclear in the current—we have a similar budget situation in New York that the Federal Government has. We are facing a $2 billion deficit next fiscal year. So, one of the first things to get cut are some of these consumers programs.

The cost, it is hard for us—it is hard for me—to estimate. I don't know what the State Banking department spends on this. I know when we do it we target them to local areas. We target the shoppers guides to local areas, and I would imagine there would be different costs.

The CHAIRMAN. Did you find it was useful?

Mr. HORNER. The State banker guide?

The CHAIRMAN. Yes. The consumer guide to bank services.

Mr. HORNER. I certainly think it is helpful. Again, I think information, the dissemination part of the process is really the problem.

As long as you are relying on State funds to get that information out and also that the banking department oversees that, I think you are going to have some limitations on your ability to do that. And FCA, which is just funded by citizens that are interested in it does not face those kinds of up-and-down, cyclical budget issues; as well, as I mentioned earlier, that the self-interest in getting the information out.

The CHAIRMAN. Mr. Hunter, I have one more question for you.

You run sort of insurance consumers association at the national level. And reading a few of your brochures, the advice is usually blunt and direct.

For instance, you say, "Don't buy credit life insurance" because it is overpriced.

Mr. HUNTER. Right.

The CHAIRMAN. You have done a world of good, and of course I applaud you for that. But can you tell us just how effective you believe organizations such as yours are, even when the advice is direct, such as with credit life? Do consumers respond? Do you have any evidence that they respond? And what is it?

Mr. HUNTER. The South Carolina example is the clearest, where we actually had—in South Carolina, they have a law that good drivers are entitled to get insurance from the company of their choice. Only a few States have that now. California has that under proposition 103. That is one of the powerful parts of proposition 103.

But in South Carolina, people have the right to go to the company of their choice. What they were lacking in South Carolina was knowledge about who were the cheaper companies.

We published lists by territory so the newspapers could list in each city in South Carolina. We found that within 2 weeks the higher-priced companies, the ones we identified as the five highest-priced, had actually come in and dropped their insurance prices. Clearly, they must have seen a market share problem with the current high prices that they were charging.

So, I think that is the clearest example of the kind of power that is possible.

With credit life insurance, in our guides, we sell thousands of those guides. I am certain we have helped thousands of people, but again we have funding limitations. We are always on the brink of insolvency. We don't have a way to get that kind of information into everybody's hands. We have worked with States. We have managed to hold down the rates in several States by regulation to a more fair level, like in New York and several other places. We now have fairer prices.

In credit life, we still tell people not to buy it—bluntly. We think that kind of information is helpful. People can understand when you say don't do it.

The CHAIRMAN. Mr. Horner, Mr. Hunter, Ms. Meier, thank you very, very much for your excellent testimony. I can recommend to members of the committee that they move ahead on this legislation. I think your objective is modest, and I would think—I would hope—that the Congress could act on it promptly.

Thank you very much.

The committee stands adjourned.

[Whereupon, at 12:25 p.m., the committee was adjourned.]

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December 22, 1988

Mr. Bartlett Naylor
Committee on Banking, Housing
and Urban Affairs
Washington, DC 20510-6075

Re: Financial Consumers
Association

Dear Mr. Naylor:

Thankyou for your request for the views of the National Consumer Law Center on the effectiveness of Financial Consumer Associations for lower income consumers.

The National Consumer Law Center (NCLC) works on a daily basis with legal services lawyers serving low-income communities across the country on a wide variety of consumer issues and problems. Additionally, most of our lawyers have worked previously in community legal services offices representing low-income families with financial problems. This experience has indicated a great many of the benefits which low-income households would derive from Financial Consumers Associations (FCA's).

FCA's Can Provide Valuable Financial Informaton To Consumers Saving Them Billions of Dollars

Several examples of areas where FCA's can provide information to consumers and save them billions of dollars come to mind. While other examples abound, these are illustrative of information that would be used by consumers if a FCA was available to compile it and make it available to the mass media which has proven eager to distribute it cheaply.

Credit Shopper Guides

Americans hold hundreds of billions of dollars of consumer credit and a larger amount of residential mortgage credit on which they pay scores of billions of dollars of finance charges each year. A demonstration project conducted by the Federal Reserve Board showed that consumer shoppers guides can save consumers billions of dollars in finance charges.

In the demonstration project, required by the Truth in Lending Simplification Reform Act of 1980, the FRB selected several cities in which it surveyed financial institutions to determine their average Annual Percentage Rate on several types of consumer credit transactions. The information was compiled by the FRB and distributed through the mass media.

CHART 1
CHARACTERISTICS OF BORROWERS AT BANKS, FINANCE COMPANIES, STORES, CREDIT UNIONS, S & L's

Source of Outstanding Credit	1982 Family Income (Dollars)		Balance in Main Checking (Dollars)		Liquid Assets (Dollars)		Financial Assets (Dollars)		Consumer Debt Outstanding (Dollars)		Mean Number of Other Financial Services
	Mean	Median	Mean	Median	Mean	Median	Mean	Median	Mean	Median	
Commercial bank	30,160	24,200	653	300	7,445	1,398	14,622	1,800	7,869	4,430	2.46
Finance company	29,099	23,080	544	200	6,322	950	11,983	1,000	6,927	4,183	2.09
Store	23,551	19,546	401	150	5,983	664	8,637	693	5,533	1,940	1.89
Savings and loan or savings bank	32,389	26,800	579	300	10,991	4,300	17,612	3,863	6,409	4,365	2.82
Credit union	35,980	32,200	672	300	8,451	2,453	11,818	2,815	6,274	4,705	2.88
All families	26,154	19,410	918	300	12,727	1,968	23,774	2,300	5,400	2,382	.90

PERCENT OF FAMILIES USING SERVICES EXCEPT AS NOTED:

Source of Outstanding Credit	Percent of all Families	Holders of Selected Credit Cards		Homeowner	Credit Union Members	Have Mortgages Debt Outstanding	Have Money Market Deposit Account	Have Money Market Mutual Fund Account	Mean age of Family Head (Years)
		Bank	Travel and Entertainment						
Commercial bank	19	54	14	68	21	51	6	7	40
Finance company	12	44	9	62	23	46	4	5	39
Store	7	37	9	56	21	40	3	4	41
Savings and loan or savings bank	3	56	16	74	27	60	13	5	41
Credit union	7	60	13	74	100	63	8	5	39
All families	100	42	10	64	21	37	8	6	47

Source: FRB's 1983 Survey of Consumer Finance

See also Boczar, "Competition Between Banks and Finance Companies," (Credit Research Center Working Paper No. 9, Purdue Univ. 1970) ("....the evidence on borrower characteristics does not support the risk segmentation hypothesis."); Dauten and Dauten, "Consumer Perception of the Credit Process," 10 J. of Consumer Affairs 62 (Summer 1976) ("....loan applicants had at least as good a chance of their loans being approved by a bank loan officer as by a Finance Company loan officer."); Eisenbeis and Murphy, "Interest Rate Ceilings and Consumer Credit Rationing, a Multivariate Analysis of a Survey of Borrowers, 41 S. Econ. J. 115, 122 (1974) ("....there is little evidence to support hypothesis of market risk segmentation."); Goudswaard, "Consumer Credit Charges and Credit Availability," Western Econ. J. 214, 217 (Dec. 1968) ("A systematic comparison of borrowers at low and high rate lenders shows little difference between them based on their risk characteristics."); A.C. Sullivan, "Competition in the Market for Consumer Loans," 36 J. Econ. & Bus. 141, 148 (1984) ("The extent of risk segmentation of the consumer loan market appears to be dictated by the structure of rate ceilings.").

The FRB's economic analysis demonstrated that the rates on several types of consumer credit declined more than average in the test cities where the shoppers' guides were published. This resulted in millions of dollars of savings to consumers in those cities. If applied to all major markets nationally, the savings would be in the billions of dollars accruing directly to American families. Except for a handful of state banking departments, no one compiles and distributes this information. The FRB has not indicated any plans to undertake compilation and distribution in the future. Because the costs of compilation and distribution are low, FCA's would be a natural answer to this information vacuum creating more competitive credit markets.

FCA's Can Provide Other Valuable Credit Shopping Information to Consumers With Billions of Dollars of Potential Consumer Savings

Most Americans who utilize high rate lenders, such as finance companies, small loan companies, rent-to-own retailers, loan brokers, and second mortgage lenders, could obtain the same amount of credit at sharply reduced rates from lower rate lenders, mostly credit unions, banks, S&L's, and many retailors. Empirical study after empirical study has demonstrated that there are no or only insignificant demographic differences between most finance company and bank borrowers. See Chart 1. Chart 1 illustrates that average and median bank and finance company consumers have approximately the same income, savings, debt, credit cards, home ownership rate, age, etc. However, the finance company customers are each likely to be paying hundreds or even thousands of dollars in additional finance charges compared to bank customers. See Chart 2.

Chart 2
Savings On Loans At High And Low Rates

Amount Borrowed	Rate	Term	Finance Charge	Savings
$ 1,500	13%	36 Months	$319.47	
$ 1,500	21%	36 Months	$534.46	$214.99
$ 1,500	13%	36 Months	$319.47	
$ 1,500	24%	36 Months	$618.57	$299.10
$10,000	12%	120 Months	$7,216.51	
$10,000	18%	120 Months	$11,622.22	$4,405.71

There is a simple consumer education message from this data that no one is currently providing to finance comany customers. That message is that many can save hundreds of dollars in a short time by applying for credit at several low rate lenders rather than continuing with their high rate lender or going to a high rate lender when they are rejected by a low rate lender. While many Americans find rejection for credit extremely embarrassing and humiliating, if they knew their chances at low rate credit were this good and the savings this great, many would take the time and suffer the embarrassment to apply at several low-rate sources.

No one has made this combination of information readily available to consumers on a wide scale. This is another example of where a FCA could save consumers billions of dollars with an effective education program. In this case there is not only an information vacuum, there is much misinformation in the marketplace about credit availability for lower income and elderly consumers at low rate lenders. NCLC has saved individual consumers millions of dollars over the years by encouraging their lawyers to locate low-rate sources of refinancing in appropriate cases for clients who the lawyers would have believed were not creditworthy because of payment difficulties, low income, or age. In many, many instances refinancing at a low-rate financer made the consumers' debt load manageable again. See "'Borrowing Your Way Out': A Primer on Refinancing Home Mortgages in Foreclosure," NCLC REPORTS, Consumer Bankruptcy and Foreclosure Edition 41, 42, 45 (NCLC, Boston 1988). A FCA could take this information and distribute it more broadly with dramatic results.

Second Class Bank Services Costly

FRB surveys and analysis indicate that Blacks and Hispanics, low-income families and female headed households disproportionately do not use traditional deposit services at banks compared to Whites, males and higher income groups. While most of these unbanked families are receiving and paying out $1000 or more per month, they use the second class, largely unregulated, uninsured, high-priced banking services provided by corner stores, check cashing outlets, money order issuers. Such services often require consumers to carry large amounts of cash on the unsafest streets in America, threatening their personal safety as well as risking their ability to meet basic needs for food and shelter.

While the causes of this growing problem are multiple -- withdrawal of bank branches from minority and low-income neighborhoods, rapidly increasing fees for basic retail banking services, bank marketing to upscale households -- there are many avenues that FCA's could take to reduce the waste of scarce money and bodily harm for low-income, minority and female headed households. For many, pointing out the savings and security of using a bank will make the difference. Identifying nearby banks which offer basic banking services at reasonable costs will make a difference for many more. Advocating for the existence of bank branches, community credit unions, and appealing bank services will assist many more.

Complex Products Require Better Consumer Education

It is difficult to overestimate the complexity of even the simplest financial products to very large segments of math-adverse Americans. In the National Assessment of Mathematics conducted in the 1970's, only 1% of 17 year olds and 16% of adults could balance an example of a checkbook. National Assessment of Educational Progress, Consumer Math 6 (GPO 1975). NCLC's experience in teaching lawyers the basics of calculating interest on an installment credit transaction similarly suggests a great deal of math adversion even among such a highly educated group.

New products, such as home equity loans, car leases, reduced rate car financing, and rent-to-own transactions, present new levels of complexity. These new products rob Truth in Lending of much of its reliability as a tool for shopping and comparison. The APR is calculated in different and therefore noncomparable ways for home equity lines of credit and second mortgages, for car loans and car sales, for credit cards and personal loans, and not at all for car leases and rent-to-own transactions. In many instances, the APR is misleading to consumers choosing a refinancing of their debts. This means that the Truth in Lending solution of the 1970's -- the Annual Percentage Rate (APR) -- is no longer the reliable shopper's guide it once was.

The burgeoning use of these new products raises much more challenging issues of consumer education than existed in the 1970's. Few existing organizations are able to meet this challenge.

Over the years NCLC has represented consumers and consulted with legislators on a wide variety of consumer bills in state legislatures. NCLC's experience had indicates a great deal of representation of industry interests in state legislatures and very little, if any, outside representation of consumers' views or presentation of information from a consumer's viewpoint. NCLC has witnessed in many states the passage of previously defeated, financial legislation only after a single advocate of consumers' interest moved on to other endeavors. Legislators depended upon those advocates for information and analysis. When a vacuum exists, it is replaced by the financial industry's views and information. The results are often short-sighted and serve the lowest common denominator of the industry. With minimal resources, FCA's can restore some balance to this process.

Thank you for requesting the views of the National Consumer Law Center, Inc. If any further information can be provided, please do not hesitate to let me know.

Sincerely,

Robert J. Hobbs

RJH:gl

January 21, 1989

Honorable Donald Riegle
Chairman
Committee on Banking, Housing, and Urban Affairs
U.S. Senate
Washington, DC 20510

Dear Mr. Chairman:

At the Senate Banking Committee's hearing on financial consumers' associations on December 14, 1988, I indicated that BankWatch would submit additional information for the record. The enclosed set of documents presents important evidence on the potential benefits of establishing state-based financial consumers' associations and the need for favorable Committee action on a provision, similar to Section 913 of S. 1886 as passed by the Senate last March, which would override potential federal preemption claims against state financial consumers' association legislation. The documents are as follows:

1. U.S. Public Interest Research Group. A listing of the shoppers' guides, informational brochures, and research and policy reports on financial service matters prepared by various state level Public Interest Research Groups (PIRGs) from 1975 to 1987.

2. California Public Interest Research Group (CalPIRG). Four shoppers' guides (Banking Services, Credit Cards, Credit Unions, Auto Insurance) and an informational brochure (Consumer Credit) published in 1987.

3. Public Citizen's Congress Watch. A survey of state legislators and legislative staff in four states concerning the adequacy of consumer representation on financial service issues before state legislatures; and a letter of Jan. 19, 1989 in support of the financial consumers' association concept.

4. New York State, Assembly Bill No. 11918 (July, 11, 1988). Legislation introduced by Assemblyman Jerrold Nadler to establish a New York Financial Consumers' Association.

5. Section 913 of S. 1886, as passed by the U.S. Senate on March 30, 1988. This preemption override provision would explicitly recognize the authority of state legislatures to enact financial consumers' association legislation that subjects federally chartered banking institutions to a statutory notice insert requirement. The New York financial consumers' association bill provides an example of such legislation.

6. Letters to the U.S. House Banking Committee in support of the preemption override provision, Section 913 of S. 1886. New York

Assemblyman Jerrold Nadler (June 22, 1988); Maryland Delegate Peter Franchot (July 8, 1988); New York Public Interest Research Group (July 7, 1988); Maryland Alliance For Responsible Investment (July 11, 1988). These letters indicate that the preemption spectre has been used to undercut legislative initiatives at the state level to establish financial consumers' associations.

The collective experience of the state level PIRGs demonstrates the skill and creativity that consumer organizations can bring to the task of informing consumers and representing their interests in regard to financial service matters. However, the history of PIRG involvement in financial service issues also tends to support another major conclusion of the hearing witnesses: namely, that self-funded consumer organizations, especially those engaged on a broad range of issues, do not have the resources to disseminate financial service information to consumers on a regular basis or to develop public policy positions on the full range of consumer financial service issues.

As shown by the U.S. PIRG listing, a number of PIRGs have prepared shoppers' guides to banking and other financial services; but, for the most part, these guides covered only a few markets and their distribution to consumers was usually limited. In many cases, the shoppers' guides were published primarily for students and no more than 200 or 300 copies were printed.

On the other hand, the unique circumstances surrounding CalPIRG's publication of shoppers' guides demonstrate clearly that when consumer organization resources are bolstered by a public support mechanism, the consumer organization can be extremely effective in disseminating financial service information to consumers, including low and moderate income consumers, on a very extensive scale. In 1987, CalPIRG published four major shoppers' guides to certain financial services offered in the San Diego area: 1987 Banking Services Survey; 1987 Credit Card Survey; 1987 Credit Union Survey; 1987 Auto Insurance Issue. In the same year CalPIRG also published an informational brochure, The Consumer and Credit. These shoppers' guides and the informational brochure, which are submitted for the hearing record as item #2 above, contained a wealth of financial service information of great value to San Diego consumers. CalPIRG printed 21,000 copies of each guide and the brochure: 7,000 copies of each were distributed directly to low and moderate income consumers through local agencies; roughly 10,000 copies of each were mailed to CalPIRG members in the San Diego area; and the remainder were distributed to consumers at large.

CalPIRG was in a position to undertake the major tasks involved in preparing these shoppers' guides and distributing them broadly because in recent years it has received an annual $40,000 grant from the City of San Diego for the dissemination of information to consumers, especially low and moderate income consumers. In 1987, CalPIRG allocated more than one-half of this grant to the publication and distribution of these four shopper' guides and the informational brochure.

As discussed at the hearing, the notice insert requirement contained in the financial consumers' association legislation that has been introduced in several state legislatures represents an indirect public support mechanism -- without charge to taxpayers -- that would enable a financial consumers' association to undertake a broad range of information dissemination and representation activities. The CalPIRG experience underscores both the need for such a public support mechanism and the creative potential that can be unlocked by providing it.

Sincerely,

Jonathan Brown
Director
BankWatch
P.O. Box 19367
Washington, D.C. 20036

U.S. PIRG

Listing of Shoppers' Guides, Informational Brochures, and Research Surveys Concerning Consumer Financial Services Proposed by Public Interest Research Groups 1975-1987

Code (S): Shoppers' Guide with Comparitive Prices
(B): Informational Brochure
(R): Research and Policy Report

PART A. Deposit and Credit Services

1. CalPIRG, 1987 Banking Services Survey (San Diego), 1987 (S)
2. CalPIRG, The Consumer and Credit, 1987 (B)
3. CalPIRG, 1987 Credit Card Survey (San Diego), 1987 (S)
4. CalPIRG, 1987 Credit Union Survey (San Diego), 1987 (S)
5. MaryPIRG, Checking Account Survey: College Park Area, 1987 (S)
6. MassPIRG, Shopping for a Mortgage in Massachusetts, 1987 (R)
7. OSPIRG, Bank Credit Cards: Tips for Consumers, 1987 (S)
8. WashPIRG, Banking Services Survey (Seattle), 1987 (S)
9. AKPIRG, Guide to Anchorage Banking Services, 1986 (S)
10. CalPIRG, 1986 Banking Services Survey (San Diego), 1986 (S)
11. MaryPIRG, A Study of Check Hold Policies in Maryland, 1986 (R)
12. NJPIRG, A Study of Check Clearing Delays in New Jersey, 1986 (R)
13. NMPIRG, Banking Survey (Albuquerque), 1986 (S)
14. NYPIRG, Consumers Guide to Banking in New York City, 1986 (S)
15. OSPIRG, Bank Credit Cards: Tips for Consumers, 1986 (S)
16. OSPIRG, Oregon Consumers and the Banking Industry (Check Holds), 1986 (R)
17. CalPIRG, Bank Survey (Santa Barbara), 1985 (S)
18. MoPIRG, A Study of Check Clearing Delays in Missouri, 1985 (R)
19. NYPIRG, Banking Services Survey, 1985 (S)
20. OSPIRG, A Study of Check Clearing Delays in Oregon, 1985 (R)
21. WashPIRG, Banking Services Survey (Seattle, Olympia, Bellingham), 1985 (S)

22. CalPIRG, Special Credit Issue, 1984 (B)

23. MontPIRG, An Investigation Into the Check Holding Policies of Montana Financial Institutions, 1984 (R)

24. MontPIRG, Missoula Banking Survey, 1984 (S)

25. MontPIRG, Small Personal Loans: Are Borrower's Rights Ignored? (loan insurance policy and procedures), 1984 (R)

26. NMPIRG, Banking Survey (Albuquerque), 1984 (S)

27. NYPIRG, NYPIRG Guide to Albany Banks, 1984 (S)

28. MontPIRG, Missoula Banking Survey, 1983 (S)

29. NYPIRG, NYPIRG Guide to Syracuse Banks, 1982 (S)

30. NYPIRG, Citizens' Research Guide to Bank Redlining, 1979 (R)

31. NYPIRG, Redlining in Brooklyn: Two Years Later, 1979 (R)

32. NYPIRG, A Report on Redlining in Buffalo, 1978 (R)

33. NYPIRG, Student Guide to Banks in the Triple Cities, 1978 (S)

34. NYPIRG, Guide to Syracuse Banks, 1977 (S)

35. NYPIRG, Redlining in Brooklyn, 1976 (R)

PART B. Insurance Services

1. CalPIRG, A Report on Inconsistent Price Quoting of Automobile Insurance, 1987 (R)

2. CoPIRG, CoPIRG's Guide to Buying Car Insurance, 1987 (B)

3. WiscPIRG and Center for Public Interest Representation, An Analysis of the Protection Offered to Wisconsin Insurance Consumers and a Program for Fighting Back (study of the state insurance commission), 1987 (R)

4. MassPIRG, A MassPIRG Position Paper on Medical Malpractice Reform, 1986 (R)

5. MassPIRG, Consumer Agenda for Insurance and Legal Reform (liability insurance crisis), 1986 (R)

6. MassPIRG, The Medical Malpractice Insurance Controversy in Massachusetts, 1986 (R)
7. NMPIRG, A Consumer Guide to Buying Insurance (auto, health, life, homeowner's, renter's), 1986
8. NYPIRG, A Consumer's Guide to Comprehensive and Collision Automobile Insurance, 1978 (B)
9. NYPIRG, Insurance Redlining in New York, 1978 (R)

1987 Banking Services Survey

CALPIRG REPORTS

CALPIRG 2187 Ulric Street, Suite B, San Diego CA 92111 (619)279-5332

Volume 14, Number 7 April/May 1987

Your Options at the Bank

This edition of *CalPIRG Reports* is intended to give you, the consumer, specific information on banking services offered by the major banks in San Diego so that you can effectively shop around for the services which best meet your needs at the lowest possible cost.

Since banks have been deregulated, there is less standardization of accounts, which makes it more difficult to comparison shop. However, the following ten pages summarize the basic types of checking and savings accounts available, as well as the miscellaneous fees charged by each institution.

Regular or non-interest bearing, checking accounts are full-service accounts on which interest is never received. Unlimited check-writing is allowed. Many regular checking accounts waive fees if a certain balance is kept.

Interest bearing checking accounts, also called NOW (negotiable order of withdrawal) accounts, operate like regular checking accounts but pay a flat rate of interest on the balance kept. ***Tiered Interest*** checking accounts pay higher interest with higher balances.

Money Market Deposit Accounts are essentially savings accounts that permit the writing of three checks per month and usually have a sharp fee for writing a fourth. They are characterized by high balance requirements to avoid fees and receive higher "market" interest rates. The "market" interest rate may be tied to a certain rate in the economy or may be set at the discretion of the institution.

Money Market Savings accounts also offer "market" rates but have no check writing ability. ***Regular Savings*** accounts are old-fashioned passbook or statement savings accounts. Some institutions have merged these accounts with their Money Market Savings accounts.

Please note that each financial institution has its own names for each of these types of accounts.

Since our survey last year, the interest rates of all types of accounts have gone down. A recent nationwide survey conducted by the Consumer Federation of America, with the help of CALPIRG on the West Coast, shows that, while interest rates are down, the cost of these types of bank services has increased sharply.

The cost of interest-bearing checking accounts nationwide has climbed 11.8% in the year ending April, 1987, following similar increases in the two previous years. Consumers with small balances and moderate account activity now pay about 40% more for interest bearing accounts than they did in 1984.

Choosing Your Account

Before you use the account comparison charts, you should know what your own banking habits are:

- How many checks do you normally write per month?
- Are you able to keep a certain balance level at all times?
- Look at your current bank statement to see if it lists what your average account balance was.
- How often do you overdraw your account?

Think about all the conditions that affect the cost of an account, and which ones are most important to you. You need this information to calculate the true cost and yield of the options available to you.

Keep in mind that the survey covers account conditions as of May, and interest rates as of May 28, 1987. Changes may have occurred since, especially interest rate levels (although the rates listed can tell you the relative competitiveness of institutions). Therefore, we encourage consumers to verify information that is important to you with the financial institution before you close your old account and open a new one.

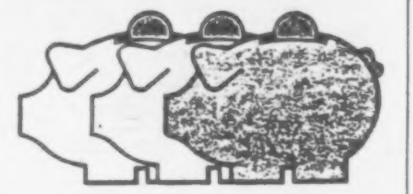
Not included in this survey are factors such as which institutions are most convenient to you, which have the shortest lines or which banks have the most helpful staff.

Also not surveyed here are combination accounts in which, for example, a free checking account may be available if $10,000 is kept in a savings account. There are several institutions which offer services in conjunction with more than one account.

Credit unions are not included in this survey since eligibility is usually limited. (See box on page four for more information on credit unions.)

If you are interested in an institution that is not surveyed here, use the charts to ask appropriate questions, and compare answers to those that are listed here.

NOTES: ***National Bank of La Jolla*** and ***National Bank of Fairbanks Ranch*** were in the process of merging with ***First National Bank*** when we compiled this report; account information not available. ***Central Savings*** was recently purchased by ***Coast Federal***; account information not available. ***Citicorp Savings*** will announce new checking accounts in the near future.



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HOURS & MISCELLANEOUS CHARGES

Institution	Lobby, Walk-Up, Drive-Up Hours[1]	ATM Hours[2]	Stop Payment Charge	Overdraft Charge/ Maximum Per Day	Return Deposits Fee (Checking/Savings)[3]	Maximum # Days Checks Can Be Held: Local, In-State, Out-of-State	Charge for Money Order	Charge for Cashiers or Association Check	Will Cash Government Check for Non-Customers /Fee
American Savings	L: 9-4 M-Th, 9-6 F	24	$5	$10/30	$3	4,4,7	$1	free[10]	no
Bank of America	L: 10-3 M-Th, 10-6 F W,D: variable/area	24	$12	$10/30	$3	4,4,9	$3.50[8]	$3.50	no
Bank of Commerce	L: 10-4 M-Th, 10-5 F D: 9-5 M-Th, 9-6 F	24	$10	$12/no max	$5[3]	3,7,10	$1.50	$3.50	no
Bank of San Diego	L: 9-4 M-F W: 4-5 M-F D: Vary/branch	24	$10	$12/no max	$5	4,10,10	$3.50	$3.50	no
Bank of Southern California	L: 9-4 M-Th, 9-5:30 F	24	$10	$11/no max	$3	4,7,10	$2	$3	no
California Federal	L: 9-4 M-Th, 10-6 F 9-1 Sat (some) D: 9-4 M-Th, 9-5:30 F	24	$10	$10/30	$5	4,4,9	$1.50	$3	no
California First Bank	L: 10-4 M-Th, 10-6 F D: 8:30-4:30 M-Th, 8:30-6 F	24	$5	$10/60	$2.50 $1.25	NA,5,10	$2.50	$3.50	no
Citicorp Savings	L: 10-3 M-Th, 10-6 F	—	$6	$10/60	$3	4,4,10	$2	$2	no
Citizens Western Bank	L: 9-4 M-Th, 9-6 F, 9:30-12:30 Sat D: 7:30-7 M-F, 9:30-12:30 Sat[4]	24	$5	$10/30	$2	5,5,10	$1.50	$3.50	yes- $2
Far West Savings & Loan	L: 9-4 M-Th, 9-6 F	—	$10	$10/no max	$5	4,4,10	$1	$3	no
First Interstate Bank	L: 10-4 M-Th, 10-6 F D: same as lobby	24	$7	$10/40	$3 $1.50	3,4,9	$3	$4	varies
First Nationwide Bank	L: 9-4 M-Th, 10-6 F Smart: MTuSat 10-7, WThF 10-9	24-Main, others- Smart hrs	$6	$10/50	$5	4,4,10	no MOs	$3	no
Flagship Federal Savings	L: 9-4 M-Th, 9-6 F	24	$5	$15/no max	$5	4,4,10	$1	$1	no
Gibraltar Savings	L: 9-4:30 M-Th, 9-6 F, 9-1 Sat W,D: same as lobby	24	$7	$10/50	$5	4,4,10	$1	$3.50	no
Glendale Federal S & L	L: 9-4:30 M-Th, 9-6 F Carlsbad: 9-1 Sat D: 9-4:30	24	$10	$10/no max	$3	4,10,10	1 free then[5] $1	free[5]	no
Great American First Savings Bank	L: 10-4 M-Th, 10-5:30 F, 9-1 Sat (some) W: 9-10 M-F D: 9-4 M-Th, 9-5:30 F Sat 9-1	24	$7	$10/50	$5	5,5,10	$1	$3	no
Great Western Savings	L: 9-4 M-F, 9-1 Sat	24	$6	$12/no max	$3	3,5,10	$3	$1	no
Grossmont Bank	L: 10-3 M-Th, 10-6 F D: Varies/branch	24	$6	$10/no max	$3	4,4,9	$2	$3	no
Home Federal	L: 9-4 M-Th, 9-5:30 F D: 9-6 M-F	24	$10	$10/50	$5	4,4,10	$2[6]	$2[6]	no
Home Savings of America	L: 9-4 M-Th, 9-6 F 9-1 Sat (some) W,D: 9-5 M-Th, 9-6 F	24	$10	$10/30	$3	4,7,7	$1[7]	free	no
Imperial Savings	L: 9-4 M-Th, 9-5or6 F D: Same as lobby	24	$5	$10/40	$5	5,5,10	$3	1 free then $2	no
La Jolla Bank & Trust	L: 9-4 M-Th, 9-6 F W: 8-9 M-F, 4-5:30 M-Th D: 8-3:30 M-Th, 8-6 F	24	$10	$14/no max	$4	3,5,5	$2.50	$3.50	no

Please see page 3

Hours & Miscellaneous...

Continued from page 2

Institution	Lobby, Walk-Up, Drive-Up Hours 1	ATM Hours 2	Stop Payment Charge	Overdraft Charge/ Maximum Per Day	Return Deposit Fee Checking/Savings 3	Maximum # Days Checks Can Be Held: Local, In-State, Out-of-State	Charge for Money Order	Charge for Cashiers or Association Check	Will Cash Government Check for Non-Customers /Fee
Mitsubishi Bank of CA	L: 10-3 M-Th, 10-6 F W: 9-10/3-5:30 M-Th D: 8-5:30 M-Th, 8-6 F	24	$5	$9.50/ $47.50	$2.50	3,6,8	$2	$2.50	no
Peninsula Bank of San Diego	L: 10-4:30 M-Th, 10-6 F W: 8:30-10am M-F 4:30-5 M-Th D: 8:30-5 M-Th, 8:30-6 F	24	$10	$10/50	$3	2,3,8	1 free then $1	1 free then $3	no
San Diego Trust & Savings	L: 10-4 M-Th, 10-6 F W,D: 9-5 M-Th, 9-6 F	24	$8	$11/no max	$3	2,4,10	$3	$3	yes-$4
Sears Savings Bank	L: 10-8 M-F, 9-6 Sat 11-5 Sun	24	$8	$15/30	$5	3,5,10	$1	$1	no
Security Pacific Bank	L: 10-3 M-Th, 10-6 F D: 9-4:30 M-Th 9-6 F	24	$10	$13.50/ no max	$4	5,10,10	$3	$4	no
Wells Fargo Bank	L: 10-3 M-Th, 10-6 F	24	$7	$10/30	$3	2,4,9	$3	$4	no
Western Financial Savings Bank	L: 9-5 M-F	—	$7.50	NA	$10	4,4,10	NA	NA	no
World Savings	L: 9-4:30 M-Th, 9-6 F 9-1 Sat (suburban)	—	$10	$10/50	$3	4,4,10	$1	$3[6]	no

NA = Not Applicable

1 Walk-Up, Drive-Up and Automatic Tellers may not be available at all branches.

3 Most institutions charge the same amount whether a check that bounces is deposited into a checking or savings account. If charges are different, the checking account charge is listed above the savings account charge.

4 Citizens Western Bank's La Jolla branch hours are 10-3 for the lobby and drive-up window (Mon-Fri only).

5 Bank of Commerce charges a $3 return deposit fee if the check is resubmitted and cleared.

7 Home Savings charges $2 for a money or[illegible] for non-customers

8 Home Federal charges $3 for money orders, [illegible] cashiers checks for non-depositors; Bank of Americ. [illegible]harges $3.50 for money orders for non-customers.

9 Glendale Federal does not charge for cashiers checks when payable to customer; one free per day is allowed when payable to third party, thereafter $1 each.

10 When made payable to a third party, American Savings charges $2 for cashiers checks.

THE BEST & THE WORST:

OVERDRAFT CHARGES

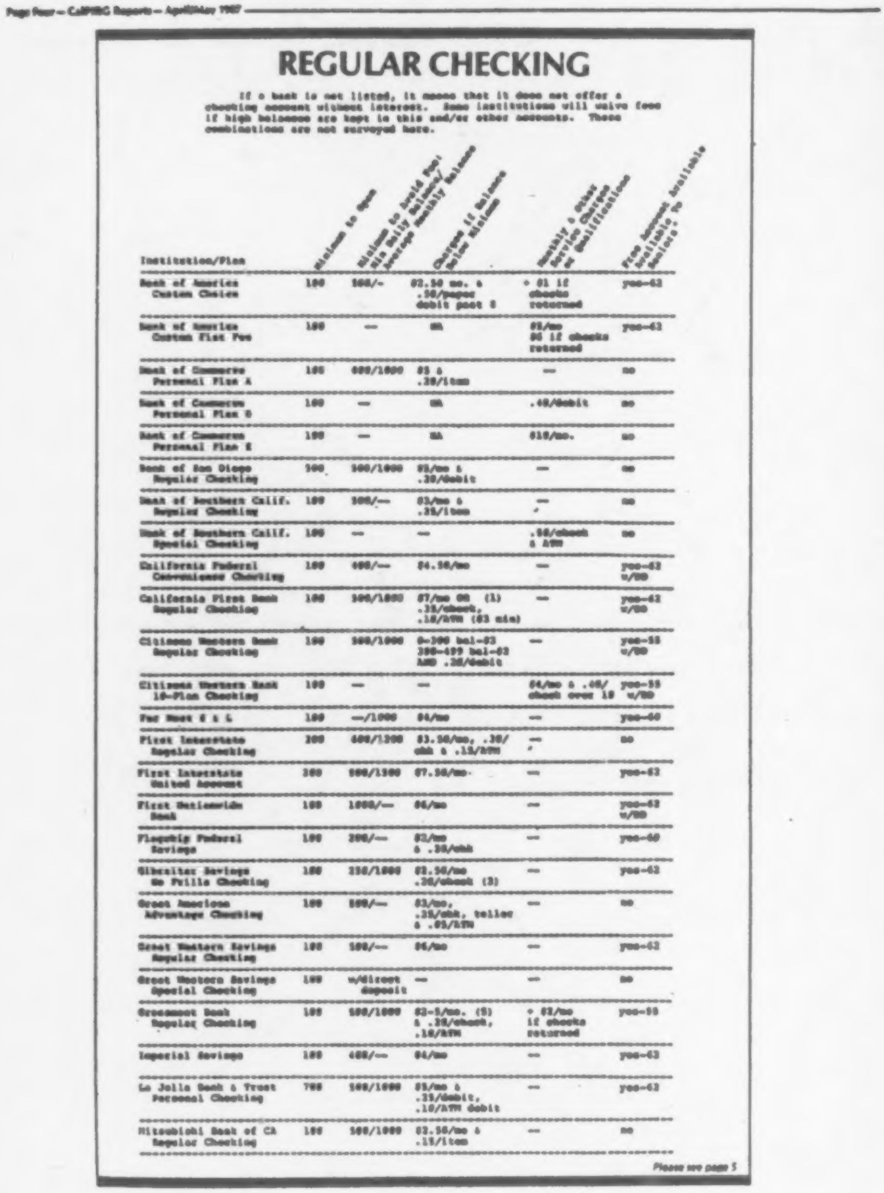
Following is a list of the amount charged for an overdraft—in other words, for writing a check that bounces. Financial institutions are listed in order of lowest to highest fee (alphabetically if fee is the same). Next to the fee is the maximum amount that will be charged per day if more than one check bounces.

Financial Institution	Overdraft Charge ($)	Maximum $/Day
Mitsubishi Bank	9.50	47.50
American Savings	10	50
Bank of America	10	30
California Federal	10	50
California First	10	40
Citicorp Savings	10	40
Citizens Western Bank	10	30
Far West Savings	10	no max
First Interstate	10	60
First Nationwide Bank	10	50
Gibraltar Savings	10	50
Glendale Federal	10	no max
Great American	10	50
Great Western Savings	10	no max
Grossmont Bank	10	no max
Home Federal	10	50
Home Savings of America	10	30
Imperial Savings	10	40
Peninsula Bank	10	50
Wells Fargo	10	30
World Savings	10	50
San Diego Trust & Savings	11	no max
Bank of Commerce	12	no max
Bank of San Diego	12	no max
Bank of Southern Calif.	12	no max
Security Pacific	13.50	no max
La Jolla Bank & Trust	14	no max
Flagship Federal Savings	15	no max
Sears Savings Bank	15	30

RETURN DEPOSIT FEES

Following is a list of financial institutions ranked from lowest to highest for the fee charged to customers who deposit a check into their checking account which is subsequently returned for insufficient funds (bounces).

Financial Institution	Return Deposit Fee ($)
Citizens Western Bank	2
California First	2.50
Mitsubishi Bank	2.50
American Savings	3
Bank of America	3
Bank of Southern California	3
Citicorp Savings	3
First Interstate	3
Glendale Federal	3
Great Western Savings	3
Grossmont Bank	3
Home Savings of America	3
San Diego Trust & Savings	3
Peninsula Bank of S.D.	3
Wells Fargo Bank	3
World Savings	3
La Jolla Bank & Trust	4
Security Pacific Bank	4
Bank of Commerce	5
Bank of San Diego	5
California Federal	5
Far West Savings	5
First Nationwide Bank	5
Flagship Federal Savings	5
Gibraltar Savings	5
Great American	5
Home Federal	5
Imperial Savings.	5
Sears Savings Bank	5
Western Financial Savings	10



REGULAR CHECKING

If a bank is not listed, it means that it does not offer a checking account without interest. Some institutions will waive fees if high balances are kept in this and/or other accounts. These combinations are not surveyed here.

Institution/Plan	Minimum to Open	Minimum to Avoid Fee: Min Daily Balance/ Average Monthly Balance	Charges if Balance Below Minimum	Monthly & Other Service Charges or Qualifications	Free Account Available to Seniors
Bank of America Custom Choice	100	500/-	$2.50 mo. & .50/paper debit past 8	+ $1 if checks returned	yes-62
Bank of America Custom Flat Fee	100	—	NA	$3/mo $6 if checks returned	yes-62
Bank of Commerce Personal Plan A	100	500/1000	$3 & .20/item	—	no
Bank of Commerce Personal Plan B	100	—	NA	.40/debit	no
Bank of Commerce Personal Plan E	100	—	NA	$10/mo.	no
Bank of San Diego Regular Checking	300	300/1000	$5/mo & .20/debit	—	no
Bank of Southern Calif. Regular Checking	100	300/—	$3/mo & .25/item	—	no
Bank of Southern Calif. Special Checking	100	—	—	.50/check & ATM	no
California Federal Convenience Checking	100	400/—	$4.50/mo	—	yes-62 w/DD
California First Bank Regular Checking	100	300/1000	$7/mo OR (1) .35/check, .10/ATM ($3 min)	—	yes-62 w/DD
Citizens Western Bank Regular Checking	100	300/1000	0-300 bal-$3 300-499 bal-$2 AND .20/debit	—	yes-55 w/DD
Citizens Western Bank 10-Plan Checking	100	—	—	$4/mo & .40/ check over 10	yes-55 w/DD
Far West S & L	100	—/1000	$4/mo	—	yes-60
First Interstate Regular Checking	200	400/1200	$3.50/mo, .30/ chk & .15/ATM	—	no
First Interstate United Account	200	900/1500	$7.50/mo.	—	yes-62
First Nationwide Bank	100	1000/—	$6/mo	—	yes-62 w/DD
Flagship Federal Savings	100	200/—	$2/mo & .30/chk	—	yes-60
Gibraltar Savings No Frills Checking	100	250/1000	$1.50/mo .20/check (3)	—	yes-62
Great American Advantage Checking	100	500/—	$3/mo, .25/chk, teller & .05/ATM	—	no
Great Western Savings Regular Checking	100	500/—	$6/mo	—	yes-62
Great Western Savings Special Checking	100	w/direct deposit	—	—	no
Grossmont Bank Regular Checking	100	500/1000	$2-5/mo. (5) & .20/check, .10/ATM	+ $2/mo if checks returned	yes-55
Imperial Savings	100	400/—	$4/mo	—	yes-62
La Jolla Bank & Trust Personal Checking	700	500/1000	$5/mo & .35/debit, .10/ATM debit	—	yes-62
Mitsubishi Bank of CA Regular Checking	100	500/1000	$2.50/mo & .15/item	—	no

Please see page 5

Regular Checking. . .

Continued from page 4

	Minimum to Open	Minimum to Avoid Fee: Min Daily Balance/ Average Monthly Balance	Charges if Balance Below Minimum	Monthly & other Service Charges or Qualifications	Free Accounts Available To Seniors*
Mitsubishi Bank of CA 3 Diamond Club (3)	100	—	—	$6	yes-60
Peninsula Bank of S.D. Regular Checking	100	400/1000	$3/mo, .20/chk & .10/ATM debit	—	yes-60
San Diego Trust & Savings	100	300/1500	$4/mo, .25/chk & .15/debit	—	no
Sears Savings Bank Budget Checking	no min	no min	no charge	$1 if checks returned	no
Security Pacific Bank Regular Checking	100	600/—	$4.50/mo & .30/debit	—	yes-62
Security Pacific Bank Value Added Banking	100	—	—	$12.50	yes-62
Security Pacific Bank Discount Banking	100	100/—	$4.50/mo & .35/debit	(Max 10 checks & 3 teller deposits)	no
Wells Fargo Bank Regular Checking	100	500/1000	$5/mo.	—	no
Wells Fargo Bank Gold Account (4)	100	—	—	$7.50/mo.	no

* Listed is the age required to qualify for senior checking. "DD" indicates that direct deposits must also be made in order to qualify.

1 $1 rebate if checks not returned ("truncated").

2 $2 discount on monthly charge if tellers, night deposit & mail transactions never used.

3 Includes benefits such as life insurance, free money orders, travelers checks, etc.

4 This Wells Fargo account includes 10 free banking services such as free checks, cashiers checks, money orders, etc.

5 Monthly charge depends on balance kept.

THE BEST & THE WORST:
REGULAR CHECKING FEES

This list ranks institutions on their regular checking accounts, according to their fees, from lowest to highest. Ranking assumes account holder does not meet minimum balance, writes 15 checks per month, uses the automatic teller three times and does not receive cancelled checks with the monthly statement. If institution has more than one checking account, the lowest cost account under given circumstances is noted. (Actual amount may vary slightly depending on whether ATM transaction was a deposit, withdrawl or other transaction.)

Institution	Monthly Charges	Yearly Charges
Sears Savings Bank	no charge	none
Gibraltar S & L	$3.50*	$42
Far West S & L	4	48
Imperial Savings	4	48
California Federal	4.50	54
Flagship Federal Savings	5	60
Wells Fargo Bank	5	60
Mitsubishi Bank	5.20	62.40
California First Bank	5.55	66.60
Bank of America	6	72
First Nationwide Bank	6	72
Great Western Savings	6	72
Great American Savings	6.15	73.80
Peninsula Bank	6.30	75.60
Citizens Western	6.60	79.20
Bank of Commerce	7.20	86.40
Bank of Southern California	7.50	90
First Interstate Bank	7.50	90
San Diego Trust & Savings	8.05	96.60
Grossmont Bank	8.30	99.60
Bank of San Diego	8.60	103.20
La Jolla Bank & Trust	9.05	108.60
Security Pacific Bank	9.90	118.80

* This Gibraltar account costs $2 more if tellers, night deposit or mail transactions are used.

FLAT RATE INTEREST CHECKING

The following are accounts which pay one rate of interest regardless of the balance kept, sometimes called N.O.W. (negotiable order of withdrawal) accounts. Interest rates are subject to variance. If an institution is not listed here, it may have a comparable rate incorporated into its money market checking account.

Institution	Minimum Deposit To Open Account	Minimum Balance to Avoid Fee: Minimum Daily/Average Monthly*	Fees if Account Below Minimum	Monthly Fees	Interest Rate Paid: APR/APY (11)	Free Account Available To Seniors **
Bank of San Diego	$500	$1000/2000	$5/mo & .20/ item (9)	—	5.25 na	no
Bank of Southern California	$1000	$1000/—	$5/mo	—	4.64 4.75	yes-62
California Federal	$100	$800/—	$6/mo	—	5.00 5.13	yes-62 w/DD
California First	$100	$1000/1000	$2/mo, .35/chk & .10/ATM (2)	—	4.40 4.49	no
Citizens Western	$100	$1000/2000	$3-5 (3) & .20/debit	—	5.25 5.39	no
Far West S & L	$100	—/$1000	$5/mo.	—	4.75 4.93	yes-60
First Interstate Bank	$100	$2000/3000	$6/mo.	—	4.80 4.90	no
First Nationwide Bank	$100	$1000/—	$6/mo.	—	4.70 4.90	yes-62 w/DD (8)
Gibraltar Savings	$100	$750/2000	$6 (4)	—	4.75 4.87	yes-63 w/DD
Glendale Federal S & L	$100	$900/—	$5/mo.	—	5.25 5.39	yes-62
Great American Savings Flat Fee	$100	$1000/—	$6/mo.	—	4.75 4.86	yes-60
Great Western Savings	$100	$1000/—	$6/mo.	—	5.00 5.13	no
Grossmont Bank	$1000	$1000/—	$5/mo & .10/ ATM, .20/Chk (6)	—	4.00 na	yes-55
Home Federal	$100	$1000/—	$5	—	5.00 na	yes-63 w/DD
Home Savings of America	$100	$750/—	$5	—	4.75 4.85	no
La Jolla Bank & Trust	$1500	$1000/2000	$5/mo & .25/debit, .10/ATM	—	4.25 na	no
San Diego Trust & Savings	$100	$1500/2000	$8	—	4.00 4.08	no
Security Pacific Bank	$100	$1500/—	$5/mo. & .30/debit	—	4.00 na	no
Wells Fargo Bank	$100	$1000/2000	$8/mo.	—	4.00 4.08	no
World Savings	$400	$1000/—	$6/mo.	—	5.01 5.14	yes-62 (7)

* Most institutions require either the minimum daily or the average monthly balance to be kept, not both.

** Listed is the age required to qualify for senior checking. "DD" indicates that direct deposits must also be made in order to qualify.

1 $8 if checks returned.

2 $3 minimum fee if account below minimum; $1 rebate if checks not returned, as long as $3 minimum still met.

3 Fee depends on account balance.

4 $2 rebate on monthly charge if tellers, night deposit and mail not used.

5 Extra services include safe deposit box, travelers checks, money orders, etc.

6 $2 extra fee if checks returned and $1000 AMB not kept.

7 First set of 200 checks free.

8 Account also available to disabled veterans on these terms.

9 The Bank of San Diego does not pay interest if minimum daily balance falls below $1000.

10 No fees or minimum balances required if electronic deposits are made.

11 The Annual Percentage Rate (APR) has a corresponding Annual Percentage Yield (APY) which is determined by how the bank calculates interest (how often it is compounded and how many days per year it is calculated on, usually 360 or 365). They yield will be higher if calculated on the best possible terms for the customer.

THE BEST & THE WORST: FLAT RATE INTEREST CHECKING FEES

Here financial institutions are ranked according to their monthly and yearly service charges assuming that the account holder: does not maintain the required minimum balance to avoid fees; writes 15 checks per month; uses the automatic teller machine three times; and does not receive cancelled checks back. (The institution must pay interest even if the minimum balance requirements are not met in order to be listed.) (Actual amount may vary slightly depending on whether ATM transaction was a deposit, withdrawal or other transaction.)

Institution	Service Charge: $ Per month	$ Per year
Gibraltar Savings	4**	48**
American Savings	5	60
Bank of America	5	60
Bank of Southern Calif.	5	60
Citicorp Savings	5	60
Far West Savings	5	60
Flagship Federal Savings	5	60
Glendale Federal	5	60
Home Federal	5	60
Home Savings	5	60
California Federal	6	72
First Interstate	6	72
First Nationwide Bank	6	72
Great American Savings	6	72
Great Western Savings	6	72
World Savings	6	72
California First Bank	6.55	78.60
Mitsubishi Bank	7.70	92.40
San Diego Trust & Savings	8	96
Wells Fargo Bank	8	96
Grossmont Bank	8.30	99.60
Peninsula Bank	8.30	99.60
Bank of Commerce	8.60	103.20
Citizens Western	8.60	103.20
La Jolla Bank & Trust	9.05	108.60
Security Pacific Bank	10.40	124.80

* If institution has no separate flat rate account, it may be listed according to its money market account.

** If tellers, night deposit, and mail transactions not used.

TIERED INTEREST CHECKING

Tiered interest checking accounts, also called "Super NOW" accounts, offer variable rates of interest which increase with balance levels. We surveyed interest rates only up to $5,000. Higher interest rates may be available with higher balances. These accounts offer unlimited check writing ability.

Institution	Minimum to Open	Minimum to Avoid Fee: Minimum Daily Balance/ Average Monthly Balance	Charges if Balance Below Minimum	Balance Level Tiers for Higher Interest	Corresponding Interest Rate Paid: APR/APY	Tier Calculated Daily or Average *
American Savings	100	500/--	$5/mo. as of 7/1	<2500 2500	5.35/5.50 5.35/5.50	Daily
Bank of America	2500	2500/--	$5/mo.	2500 2500	4.00/4.08 4.25/4.33	Daily
Bank of Commerce	2500	1000/--	$5/mo + .20/item	<2500 2500	no interest 4.50/na	Daily
Bank of Southern California	1000	1000/--	$10/mo	<1000 1000	4.64/4.75 5.00/5.13	Daily
Bank of Southern California— Preferred MM	1000	2500/--	$10/mo	<2500 2500	4.88/5.00 5.12/5.26	Daily
California Federal	1[illegible]	1000/--	$8/mo	<1000 1000 5000	5.00/5.13 5.05/5.18 5.10/5.23	Daily
California First	1000	2500/--	$1/mo + .30/chk .10/ATM	<1000 1000	4.40/4.49 4.50/4.59	Based on Mo. Average
Citicorp Savings	100	--/1500	$5/mo	<2500 2500	5.25/na 5.36/na	Daily
Citizens Western	1000	2500/5000	$5/mo + .20/debit	any balance	4.25/4.34	na
Far West Savings & Loan Association	1000	1000/--	$7/mo	<1000 1000	4.75/4.93 5.30/5.32	Daily
First Interstate Bank of California	1000	--/3000	$6/mo	<1000 1000	4.03/4.07 4.20/4.28	Drops
First Nationwide Bank	1000	1000/--	$6/mo	<1000 1000	5.17/5.30 5.17/5.30	Daily
Flagship Federal Savings	100	500/--	$5/mo	<1000 1000 5000	5.25/5.47 5.35/5.37 5.45/5.60	Daily
Gibraltar Savings	1000	1000/4000	$7/mo	<1000 1000 2500	4.75/4.86 4.85/4.97 5.00/5.13	Daily
Glendale Federal Savings & Loan	2500	1000/--	$6/mo	<2500 2500	5.25/5.39 5.25/5.39	Daily
Great American First Savings Bank	1000	2500/--	$8/mo	<1000 1000 5000	4.75/4.86 5.10/5.23 5.20/5.34	Daily
Great Western Savings	100	2000/--	$6/mo.	<2000 2000	5.10/5.23 5.10/5.23	Daily
Grossmont Bank	2500	2500/--	$5/mo + .20chk .10ATM	<2500 2500	4.25/na 4.25/na	Daily
Home Federal Savings	1000	1000/--	$6/mo	<1000 1000 2500	5.00/na 5.15/na 5.15/na	Daily
Home Savings of America	1000	1000/--	$7.50	<1000 1000	4.75/4.85 5.20/5.33	Drops
Imperial Savings	100	1000/--	$5/mo	<1000 1000	5.10/5.22 5.25/5.39	Daily
Mitsubishi Bank	1000	2000/--	$5/mo + .15/item	<1000 1000	na 4.60/4.71	Drops

Please see page 8

Tiered Interest Checking. . .

Continued from page 7

Institution		Minimum to Avoid Fee: Minimum Daily Balance/ Average Monthly Balance	Charges if Balance Below Minimum	Balance Level Tiers for Higher Interest	Corresponding Interest Rate Paid: APR/APY	Tier Calculated Daily or Drops *
Peninsula Bank of San Diego	1000	1100/3000	$5/mo + .20/chk .10/ATM (3)	<1000 1000 3000	4.63/na 4.63/na na/na	Daily
San Diego Trust & Savings	2500	1000/--	$8/mo	<1000 1000	no interest 4.25/4.33	Drops
Sears Savings Bank	none	1000/--	$4 (1)	<1000 1000 5000	no interest 5.07/5.20 5.12/5.25	Daily
Wells Fargo Bank	2500	2500/5000	$10/mo	<2500 2500	4.00/4.08 4.05/4.13	Daily
World Savings Hi Rate Checking	1000	1000/--	$10/mo	<1000 1000	5.01/5.14 5.16/5.30	Daily
World Savings Sweep Checking	2500	1000/--	$10/mo	<2500 2500 (2)	5.01/5.14 5.31/5.45	Daily

* If balance falls below an interest rate tier, the institution can either credit the lower interest rate for only the days the balance is low ("Daily"), or it can drop the rate for the entire statement period ("Drops"), which penalizes the customer.

na = no answer NA = Not applicable

1 $1 extra charge if checks returned.
2 First $2500 earns lower rate, second $2500 earns higher rate.
3 Per ATM debit only (i.e. no charge for other ATM transactions).

MONEY MARKET DEPOSIT ACCOUNTS

(With Three Checks Allowed)

These money market deposit accounts allow three checks to clear per month (or statement cycle), unlimited in-person withdrawals and usually six transfers total (between accounts, etc., which include the number of checks written).

Tiers of interest are surveyed only up to $5,000. Some institutions have higher interest rates at balances of $10,000 and above.

Institution	Minimum Deposit to Open	Minimum Balance to Avoid Fee MD = Min Daily, AM = Avg Monthly	Charge if Below Minimum	Charge for writing 4th Check	Balance Level Tiers for Higher Interest	Corresponding Interest Rate Paid: APR/APY	Tier Calculated Daily or Drops to Lowest *
American Savings	2500	500 MD	$5 as of 7/1	none	<2500 2500	5.35/5.50 5.35/5.50	Daily
Bank of America	2500	2500 AM	$5	none	<2500 2500	4.00/4.08 4.75/4.85	Daily
Bank of Commerce	2500	1000 AM	$5	$10	<2500 2500	none paid 4.75/na	Daily
Bank of San Diego	2500	2500 MD	$5 + .20/chk	$5	<2500 2500	none paid 5.00/na	Daily
Bank of Southern California	1000	1000 MD	$10	$10	<2500 2500	4.88/5.00 5.13/5.26	Daily
California Federal	1000	500 MD	$5	$10	<1000 1000	5.10/5.23 5.15/5.28	Daily
California First Bank	1000	none	none	none	<2500 2500	4.70/4.80 4.90/5.01	(2)

Please see page 9

Money Market Deposit Accounts. . .

Continued from page 8

Institution	Minimum Deposit to Open	Minimum Balance to Avoid Fee MD = Min Daily, AM = Avg Monthly	Charge if Below Minimum	Charge for writing 4th Check	Balance Level Where You Earn Higher Interest	Corresponding Interest Rate Paid: ANN/APY	Rate Calculated Daily or Drops to Lowest*
Citicorp Savings	1000	1500 AM	$5	none	<1000 1000	5.25/na 5.38/na	Daily
Citizens Western Bank	1000	2500 MD	$6	$1	<1000 1000	5.25/5.39 4.75/4.86(3)	no
Far West S & L "Money Tree MM"	1000	none	none	$20	<5000 5000	4.77/4.95 5.97/6.34	Drops
First Interstate Bank	1000	1000 AM	$10	(1)	<1000 1000	4.88/4.87 4.70/4.80	Drops
First Nationwide Bank	1000	1000 MD	(1)	$5	<1000 1000	5.00/5.13 5.07/5.20	Daily
Flagship Federal Savings	1000	1000 MD	$7	none	<1000 1000 5000	5.35/5.57 5.45/5.60 5.55/5.70	Daily
Great Western Savings	100	1000 MD	$6	$10	<1000 1000	5.00/5.13 5.10/5.23	Daily
[illegible] Bank	2000	2000 AM	$5	$5	<2000 2000	4.75/na 5.00/na	Daily
Home Savings of America	1000	125 MD	$1.50	$6	<1000 1000	4.25/4.35 5.20/5.33	Drops
Imperial Savings	100	1000 AM	$5	$10	<1000 1000	5.10/5.22 5.25/5.38	Daily
La Jolla Bank & Trust	2000	2000 AM	$7.50 +.25/chk. .10/dep	$14	<2000 2000	4.88/na 4.88/na	Daily
Mitsubishi Bank of California	1000	2000 MD	$5	none	<1000 1000	na 5.10/5.23	(2)
Peninsula Bank of San Diego	1000	2500 MD 1000 AM	$10	none	<1000 1000 2500	na 4.75/na 4.85/na	Daily
Sears Savings Bank	500	100 MD	$1	$10	<1000 1000 5000	5.12/5.25 5.16/5.30 5.21/5.35	Daily
Security Pacific Bank	1000	2000 MD	$10	$10	any	4.75/na	Daily
Wells Fargo Bank	1000	2000 AM	$5	$10	<2000 2000	4.75/4.86 4.75/4.86	Daily
World Savings & Loan	1000	1000 MD	$10	$5	<1000 1000	5.01/5.14 5.14/5.28	Daily

* If balance falls below an interest rate tier, the institution can either credit the lower interest rate for only the days the balance is low ("Daily"), or it can drop the rate for the entire statement period ("Drops"), which penalizes the customer.

1 Account will be converted to checking account.
2 Interest paid is based on average monthly balance.
3 This is not an error; since account reverts to NOW interest when balance falls below $1000, the rate actually goes up.

MONEY MARKET SAVINGS

(No Check Writing Ability)

These accounts usually offer higher variable rates of interest than regular passbook accounts, with higher balances required. They do not have check writing ability.

All accounts allow unlimited in-person withdrawals except for Bank of Southern California which only allows 3 per calendar month, and charges $1 per withdrawal thereafter.

(This survey includes tiers up to $5,000 only. Some institutions offer higher rates of interest with balances of $10,000 and above.)

Institution	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
American Savings	$2500	$100 MD	$1/mo	<2500 2500	5.26/5.30 5.30/5.38	Daily
Bank of Southern California	$ 100	$500 AD	$1/mo	<500 500 5000	4.75/4.85 5.00/5.13 5.20/5.30	Daily
California First Bank	$ 50 0 (2)	$500 AD or (2)	$3/qtr	<500 500 1000 2000	5.00/5.13 5.02/5.15 5.03/5.16 5.03/5.16	(6)
Far West Savings	$1000	none	none	<1000 1000	4.75/4.93 5.00/5.17	Daily
First Nationwide Bank	$1000	$1000 MD	account closed	<1000 1000	acct closed 5.07/5.20	Daily
Flagship Federal Savings	$1000	$1000 MD	$7/mo	<1000 1000 5000	5.20/5.37 5.40/5.60 5.50/5.70	Daily
Gibraltar Savings	$1000	$1000 MD	$5/mo	<1000 1000 2500	5.00/5.13 5.10/5.23 5.20/5.34	Daily
Glendale Federal S & L	$2500	$1000 MD	$5/mo	<2500 2500	5.15/5.28 5.25/5.39	Daily
Great American Savings—Insured Money Market	$1000	$1000 MD	$5/mo	<1000 1000 2500	5.00/5.13 5.10/5.23 5.20/5.34	Daily
Great American Savings—Advantage Savings	$100	$500 MD	$5/mo.	<1000 1000 2500 5000	5.00/5.13 5.10/5.23 5.20/5.34 5.20/5.34	Daily
Great Western Savings	$100	$1000 MD	$5/mo.	<1000 1000	5.00/5.13 5.10/5.23	Drops
Home Federal S & L	$2500	$2500 MD	$5/mo	<2500 2500	5.00/na 5.30/na	(5)
Home Savings of America	$1000	$100 MD	$1.50/mo	<1000 1000	4.75/4.86 5.20/5.33	Daily
Imperial Savings	$100	$1000 AD	$5/mo	<1000 1000	5.20/5.30 5.25/5.39	Daily
San Diego Trust and Savings	$2500	none	none	<2500 2500	4.75/4.86 4.75/4.86	Drops
Sears Savings Bank	$500	$100 MD	$1	<1000 1000	5.12/5.25 5.16/5.30	Daily
World Savings & Loan	$1000	$1000 MD	$5/mo	<1000(4) 1000	4.70/4.80 5.11/5.24	Daily

* If balance falls below an interest rate tier, the institution can either credit the lower interest rate for only the days the balance is low ("Daily"), or it can drop the rate for the entire statement period ("Drops"), which penalizes the customer.

1 Account converted to passbook rate if balance under $2500.
2 Automatic deposit of $25 or more per month.
3 Only three free withdrawals allowed if balance below minimum. Subsequent withdrawals are $1.
4 No interest paid on balances of less than $250.
5 Interest paid based on monthly average balance.
6 Interest paid based on quarterly average balance.

REGULAR SAVINGS

Institution	Minimum Deposit to Open	Minimum to Avoid Fee: Daily Balance/ Average Monthly Bal.	Charges if Below Minimum	Minimum to Earn Interest	Interest Rate Paid: [illegible]	# Free Withdrawals * Unl = Unlimited
American Savings	$100	$100/—	$1/mo	—	5.50/5.65	Unl.
Bank of America	$ 25	—/$500	$3/qtr	—	4.75/4.86	3 (2)
Bank of Commerce	$100	none	none	$500	5.50/na	Unl.
Bank of San Diego	$300	$500/—	$1/mo	—	5.25/na	Unl.
California Federal	$100	$300 AQB	$4/qtr	—	5.25/5.39	Unl.
California First	$50	$300 AQB(3)	$3/qtr	—	5.00/5.13	3(4)
Citicorp Savings	$100	$300 AQB	$3/qtr	—	5.50/na	Unl.
Citizens Western Bank	$100	—/$500	$1/mo + .50/debit	—	5.50/5.65	Unl.
Far West S & L	$100	—/$100	$2/mo	—	5.50/5.73	Unl.
First Interstate	$100	$300 AQB	$3/qtr	—	5.00/5.12	Unl.
First Nationwide	$100	$100 (5)	$1/mo	—	5.00/5.13	Unl.
Flagship Federal	$10	$100/—(8)	$1/mo	$10	5.50/5.73	Unl.
Gibraltar Savings	$100	$300/—	$4.50/qtr	—	5.00/5.13	Unl.
Glendale Federal	$100	$300/—	$1/mo	—	5.50/5.65	Unl.
Great American	$50	$300/400	$1/mo (9)	$10	5.00/5.13	3
Great Western	$100	$250	$1.50/mo	—	5.00/5.13	Unl.
Grossmont Bank	$10	$300/—	$1/mo	—	5.00/na	3
Home Federal	$100	$300/—	$1/mo	$10	5.25/na	Unl.
Home Savings	$100	$100/—(6)	$1.50/mo	—	5.00/5.16	Unl.
Imperial Savings	$100	—/$300	$1.50/mo	—	5.00/5.13	Unl.
La Jolla Bank & Trust	$500	$500/—	$<300 $3 $300+ $5	$00	5.00/na	Unl.
Mitsubishi Bank	$300	$300/—	$3/qtr	—	5.50/5.65	Unl.
Peninsula Bank	$100	$100/—	$1/mo	—	5.25/5.30	3 (2)
San Diego Trust and Savings	$300	$100/—	$1/mo	—	5.00/na	3 (7)
Sears Savings Bank	none	$100/—	$1/mo	$1	5.50/5.65	Unl.
Security Pacific	$100	$300/—	$1/mo	—	5.00/5.00	3 (2)
Wells Fargo Bank	$100	$500/—	$1.50/mo	—	5.00/5.13	1 (2)
Western Financial Savings Bank	$100	$100/—	account closed	$100	5.50/5.65	Unl.
World Savings and Loan	$100	$100 when checked	account closed(8)	$250	5.01/5.14	Unl.

(Interest rounded to nearest hundredth percent.)
na = no answer

* Depending on the institution, the number of withdrawals allowed will be per month or per quarter, corresponding to how often the service charge is assessed.

** AQB = Average Quarterly Balance

1 Higher money market interest with balance of $2500.
2 Unlimited withdrawals if balance is above $500.
3 Or at least one deposit of $25 or more per quarter, or automatic deposits of $10 or more per month to avoid service charges.
4 Unlimited withdrawals with balance of $1000.
5 $100 required on last day of statement to avoid service charges.
6 Higher balances qualify account holder for other benefits. Call for details.
7 Unlimited free withdrawals with $300 account balance.
8 Notice given with opportunity to increase balance before account is closed. No fees assessed.
9 Plus $1 per withdrawal after first one if balance not kept.

Bank Notes

■CHECK HOLD LEGISLATION NEARS PASSAGE

Banks and other financial institutions would be prohibited from holding local checks longer than one business day before making funds available to customers under legislation which has passed through the U.S. Senate and House of Representatives. The legislation now goes to a conference committee, where differences between the House and Senate bills will be ironed out, and will then be sent to the President for signature. CALPIRG's national affiliate, U.S. PIRG, expects the bill to finally become law this year, after several attempts at passage in previous years.

The legislation will be phased in over the next four years. During the first year, checks of less than $100, government checks and checks drawn on different branches of the same financial institution will have to be cleared the day after deposit. Checks drawn on local banks must be cleared three business days after deposit and checks drawn on other banks must be cleared after seven days.

When the legislation becomes fully effective after four years, local checks may not be held more than one business day, non-local checks four days. The word "local" is defined differently in the House and Senate bills. San Diego institutions currently hold out-of-state checks up to 10 days, according to CALPIRG's annual bank survey.

Other pro-consumer provisions were added to the Senate bill, including an amendment which would require banks and savings institutions to cash government checks for non-customers at no charge. Currently in San Diego, no banks will cash a U.S. Treasury check free of charge.

Another amendment requires all adjustable rate mortgages to include a maximum interest rate during the life of the loan, so that consumers may determine the highest possible cost of any such loan.

■CREDIT CARD INTEREST BILLS MOVE THROUGH STATE, FEDERAL LEGISLATURES

Bills which would limit credit card interest rates are fighting their way through the state and Federal legislatures, although final passage is uncertain. A bill in the U.S. House of Representatives, which has made its way through a subcommittee of the House Banking Committee, would set a floating interest rate cap at eight points above the yield of one-year Treasury bills. If such a cap were currently in place, the maximum allowable credit card interest rate would be approximately 14 percent.

A rate cap bill has also made its way through the California Assembly's Finance and Insurance Committee on a close 11-10 vote. Both bills face tremendous opposition from the banking industry.

The federal bill would also require full disclosure of credit card rates, fees and grace periods with any promotional material containing a credit card application. A similar disclosure bill has already passed in California and becomes effective in October 1987.

■CONSUMER GROUP CHARGES VISA WITH ANTI-COMPETITIVE PRESSURE TACTICS

The Consumer Federation of America (CFA) charged that VISA used "anti-competitive, strong-arm tactics" when it wrote a letter to banks in response to American Express' new "Optima" credit card which has a 13.5 percent interest rate.

The letter from VISA President C.T. Russell suggested that banks "rethink (their) position in offering American Express products," such as travellers checks. CFA Director Stephen Brobeck said the letter "represents pressure tactics of the most anti-competitive kind," and asked the U.S. Department of Justice to investigate. In response, the Justice Department is conducting an investigation to determine whether VISA violated federal antitrust laws.

CFA predicts that the new Optima card will force the credit card market to become more competitive, even though it will be offered only to American Express charge card holders. In his letter to banks, VISA's Russell said that the Optima card "will have a far greater effect, in the long run, upon your bank's profits than will the much-publicized Discover card."

CFA's Alan Fox noted that "the letter confirms what Congressional and consumer critics of bank card interest rates have been saying all along. Credit cards are so profitable that national banks can absorb huge marketing expenses and bad debt losses, and still earn substantial profits. Their response to low-cost competition is not to compete fairly, but to try any means necessary to keep the market from working for consumers."

Credit Unions

Credit Unions are not-for-profit cooperatives, owned and operated democratically by the people who save and borrow there. They offer savings accounts, share drafts (like interest checking accounts), loans and other services, often on better terms than for-profit banks and savings and loans.

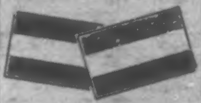
If you do not use a credit union but are eligible to belong to one, compare its services to those that you have currently. If you are unsure what credit unions you are eligible to join, call the California Credit Union League's Match-Up Service to find out.

Match Up Service

(800)472-1702

Fight and Switch

Wondering if there's an alternative to your current high interest rate credit card? Send for CALPIRG's 1987 Credit Card Survey to find out where you can get a better deal. Mail a self addressed, stamped envelope to CALPIRG (address on page 1).



CALPIRG Receives Award

In April, CALPIRG received a merit award from the San Diego County Medical Society for the 1986 Prescription Drug Price issue of CALPIRG Reports. The award commends CALPIRG "For Excellence In Communicating Health Information to the Public."

The publication reported on the relative prices of 100 pharmacies in San Diego County, and included articles on the importance of a good pharmacist and the use of generic drugs

PUBLICATIONS AVAILABLE FROM CALPIRG

The following pamphlets and newsletters are available free by mailing a business-sized, self-addressed stamped envelope to: CALPIRG, 2187 Ulric Street, Suite B, San Diego CA 92111. Please enclose a note stating which publication(s) you are requesting.

CALPIRG's Auto Insurance Survey
CALPIRG's Credit Card Survey
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DCA's The Consumer and Small Claims Court
DCA's Lemon-Aid for New Car Buyers
DCA's Answers to Tenant Questions

(FTC is the Federal Trade Commission; DCA is the California Department of Consumer Affairs)

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1987 Auto Insurance Issue

CALPIRG REPORTS

CalPIRG 2187 Ulric Street, Suite B, San Diego CA 92111 (619) 279-9052

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From the Editor

Auto Insurers Avoid Price Competition

For the insurance industry in California, the law says that competition alone shall serve as regulator of the marketplace. This "open rating system" places the burden on consumers to make sure that market competition is sufficient to drive down insurance rates to actual costs plus a reasonable amount of profit. The auto insurance price survey in this issue of *CalPIRG Reports* is geared toward that end.

We are sorry to report, however, that 10 out of the 33 companies we mailed surveys to chose not to respond. Some explanations were more acceptable than others.

One employee of Farmers Insurance (which represents about 13% of the auto insurance market), for example, explained that Farmers doesn't respond to consumer surveys because "individuals shopping for price are not the most desirable clientele." A higher-level public relations official in the same company, by contrast, stated that the company declines to participate because the "hypothetical examples involved are misleading," referring to the limited number of driver profiles that are used to compare prices.

While it is certainly true that a variety of factors can have an impact on the rates of individual consumers, we believe that rate information, such as is presented in this report, offers valuable comparative information for consumers who do not always have the time to shop around for themselves, or who are unaware of price differences that exist in the market.

Insurance companies who serve a limited group of customers, such as the United Services Automobile Association (USAA) which serves only current and former military officers, declined to participate in order to avoid calls from the general public. We had intended to include such companies, noting their membership limitations, so that members of these groups could compare their rates to those offered by other companies.

A more amusing rationale for not participating in our survey came from one company—quite by accident—who shall remain nameless. A memo intended for internal circulation only was inadvertently mailed back to us in the return address envelope we had provided.

It questioned whether the company should respond since, the author said, "I'd be tempted to bet my paycheck that... (CalPIRG is) fighting the insurance industry and, specifically, the industry's efforts for tort reform... Could you ponder how CalPIRG might use the statistics to attack our industry, if that's the intent of that group?"

Although that is not the intent of our survey, consumer advocates, including CalPIRG, do oppose tort "reforms" which limit the rights of victims of personal injuries, as a means of combatting high insurance rates which stem largely from within the industry itself. Nevertheless, rate information should not fuel anyone's fire if the rates are justified. The company did end up responding, likely due to the fact that their true explanation for not doing so had been exposed.

As with many of the surveys conducted by CalPIRG, companies which fare well in price comparisons are more willing to participate. 20th Century Insurance, for example, was happy to respond.

But the high rate of non-cooperation indicates that the insurance industry has not only kept itself free of government oversight, but that it also balks at good old-fashioned free-market competition, which doesn't leave consumers in a very good position.

No Guarantee

Unfortunately, even if every company were to respond to surveys like ours, consumer price surveys alone cannot guarantee that consumers are paying fair prices for auto insurance since the insurance industry is not subject to state and Federal antitrust laws. These laws prevent other types of businesses from cooperating together to set prices above what they would be in a competitive market situation, as well as making other types of policy decisions cooperatively.

Although the law does state that rates must be reasonable, it is the public's job and the job of the California Department of Insurance to "prove it" if they believe that rates are too high. That becomes a difficult task, however, when insurance companies are not even required to file their rates—let alone claims and other data—with the Department, as is currently the case. So while anti-trust exemptions allow the industry to share rate-setting information with each other, they are not required to share even their actual rates with the public.

Healthy competition is hampered further by the dominance of a few insurers, which gives over 60% of the auto insurance market to four companies. Concentration in regional markets can be much higher. Many other factors reduce effective competition as well, as has been documented in the "1986 Status Report for the (California State Assembly)" authored by the National Insurance Consumers Organization (NICO) and the California-based Insurance Consumers Action Network (ICAN).

Washington has left regulation of the insurance industry exclusively to individual states, but our Department of Insurance has never acted as a watchdog for consumers largely because of a "revolving door" policy which allows insurance commissioners to come from and return to the industry when they leave office. It is no surprise, then, that the Department of Insurance does not aggressively investigate and challenge the insurance industry's methods of doing business to ensure that consumers are not being taken unfair advantage of.

Lately, however, legislators have taken a more serious look at whether or not the insurance industry deserves more government oversight. Renewed interest in the matter comes as a result of recent events in the insurance marketplace

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LONG DISTANCE UPDATE

In our November survey of long distance telephone rates, we ranked each company on the basis of an even 10 minute call. However, your own individual calling patterns and the billing policies of long distance telephone companies can significantly affect how companies compare for you.

For example, if a person or business makes phone calls during daytime hours which average 3.2 minutes, TMC ranks as the lowest-cost long distance competitor. This contrasts sharply with their last-place ranking in the even ten minute calling pattern.

Six-second increment billing policies were also not considered as a factor in the ranking. TMC is the only company that uses this method of billing, which means that that company would round a call up to the nearest six second increment, instead of rounding up to the next full minute as is done by the other companies. When this billing policy is factored in, TMC's overall costs decline significantly, especially for calls of relatively short duration.

FCC Lowers AT&T's Rates

A recent Federal Communications Commission mandate, which required AT&T to lower its rates by an average of 11% on January first, will force its competitors to lower their rates as well, below those we reported in November. Most companies' price reductions will have taken effect by February.

CALPIRG will issue a long distance telephone survey in the coming months which will reflect the new price market as well as the impact that billing policies and calling patterns can have on the competitive position of each company.

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Understanding Your Auto Insurance Policy

Auto insurance: can't live with it, can't live without it.

Well, actually you may be able to live without it at least until a decision is made on the constitutionality of California's mandatory auto insurance law. The law, which requires that all drivers show proof of financial responsibility when stopped for moving violations, has been under a state Supreme Court-ordered suspension since December, 1985. But an earlier law requiring drivers to demonstrate financial responsibility when they are involved in an accident remains in effect.

In order to choose an insurance plan that is best suited to your financial situation, it's important to understand how insurance policies are written, and what factors will determine your rates.

Your auto insurance policy is actually a package of several components providing protection against different types of loss.

It can include coverage for liability, medical payments, physical damage, towing and road service, and uninsured motorists.

Liability

Liability insurance covers bodily injury and property damage which is caused to others by you, members of your immediate family, or anyone to whom you have given permission to drive your car. Your insurance company will pay the cost of such losses up to your policy limit (the amount of coverage you purchase), but you can be liable for damages beyond that amount.

Bodily injury damages may include medical bills, lost wages, and compensation for "pain and suffering" to parties you injure.

Property damage can include damages to someone else's car, fence, building, or other property. Both types of liability include the service of attorneys that may be necessary as a result of an accident; this does not come out of your coverage dollars.

Insurance companies offer liability protection with either split or single limits. Split limit liability is usually expressed as a sequence of three numbers. A policy which will pay a maximum of $100,000 for bodily injury to one person, $300,000 for bodily injury to two or more people, and $50,000 for property damage would be expressed as 100/300/50.

Combined single limit liability, stated as a single amount — $300,000, for example — offers more flexibility because it will pay a maximum of $300,000 for any liability claim in an accident, whether the payment goes toward one or more persons or toward property damage. Some companies offer single limit bodily injury liability separate from property damage liability.

So how much liability coverage should you buy? State law requires that you carry at least a 15/30/5 level. Persons with substantial income and assets usually buy higher coverage — 100/300/50 and more — because they have the most to lose in a settlement. However, even if you have minimal financial assets, we recommend that you buy coverage beyond the legal minimum. The relative additional cost is small and, if you do cause an accident, injured parties will more likely be adequately compensated.

Medical Payments

Medical payments insurance covers injuries to you and anyone else driving or riding in your car, regardless of who caused the accident. Medical payments also defray funeral expenses if the accident causes any fatalities. If you have good health insurance you might not need this coverage, although it may fill in gaps in your health policy. Also, medical payments coverage will benefit any passenger who is without health insurance. Examine your own health policy to determine how much medical coverage you need as part of your auto package.

Physical Damage

If your own car is damaged, physical damage insurance covers losses involved up to the vehicle's current value, no matter who was at fault. Collision pays for damage to your car caused by a collision with another vehicle or object, or by an overturn of your car. It is less economical to buy collision coverage on older cars, since their cash value has greatly diminished.

Comprehensive applies to other losses such as damage from fire, theft, vandalism, falling objects, and collisions with animals.

Physical damage insurance is sold with a deductible. This means that if you choose a $200 deductible on your collision coverage, then, in the event of a $500 collision loss, you must pay the first $200 in repairs to your car. The insurance company pays the remaining $300. To lower your premium (i.e., the amount you pay for your insurance policy) you should choose the highest deductible that you could afford to pay in the event of an accident without causing yourself financial hardship. By increasing your collision deductible from $100 to $250 you can save as much as 20% on your premium.

Taking a higher deductible does mean that you risk having to pay a larger repair bill if you have an accident, but you will save money over time. The average driver files a collision or comprehensive claim only once every 10 years. Besides, since filing claims will often lead to higher premiums, you may prefer not to report claims under $200 or $300. The money you save by taking a larger deductible can be set aside in a separate savings account to cover the deductible in the event that a loss does occur.

Towing & Road Service

Towing and Road Service pays the cost of towing and repairs made on the road. If you belong to an auto club, you may not need this coverage. But if emergency road service is your only reason for joining the club, you should compare it with what your insurance policy offers to see which plan will provide the best service at lowest cost.

Uninsured Motorist

If an uninsured, underinsured, or hit-and-run driver injures you or damages your car, your collision and medical payments coverages will pay for your car repairs and medical bills, respectively. Neither coverage, however, will pay for lost wages or "pain and suffering." These losses are covered by uninsured and underinsured motorist insurance. This option is relatively inexpensive and, considering the fact that at least 15% of California drivers are uninsured, it's probably a wise investment.

What Determines Your Rates

Because insurance companies calculate your rate based on a variety of additional factors which they associate with varying degrees of risk, premiums differ greatly among policy holders who choose the same coverage levels, even within one company. These factors include:

Age. Young drivers, particularly those under the age of 25, are usually charged the highest rates, as are families with young drivers in the household.

Sex. Women are usually afforded lower premiums than men, and they usually see a reduction in their rates after the age of 25, whereas men's rates don't decrease notably until they reach 30.

Marital Status. Being married is a plus for both sexes, although, once again, men don't benefit from this status until they reach age 24 or 25 while women see an immediate drop in their premiums upon getting married.

Driving Record. If you or others who will be driving your car have been involved in any accidents or have received more than one traffic citation within the past three years, you can expect higher rates. The records of individual family members are taken together; thus one member's bad record will put the whole family into a higher rate category. Some companies, such as 20 Century, will only insure individuals and families with relatively "clean" driving records.

Claims History. The more claims you have had against your policy, the higher your rates will be. If your claims are too large or too numerous, some companies will discontinue your policy at the time of renewal.

Area of Residence. Because accidents occur more often in urban areas than they do in the suburbs, living in

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DISCOUNT/SURCHARGE CHART

Company	Discount										Surcharge				
	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
Allstate	✓			✓	✓		✓			✓	✓	✓			
Aetna[1]	✓	✓	✓	✓	✓		✓	✓	✓		✓	✓	✓	✓	✓
Auto Club[4]	✓			✓			✓					✓			
Fireman's Fund	✓	✓	✓	✓	✓		✓	✓	✓		✓	✓	✓[5]	✓	✓
GEICO	✓	✓		✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Liberty Mutual	✓	✓	✓	✓	✓		✓		✓	✓	✓	✓		✓	✓
Mercury[2]	✓		✓		✓	✓				✓	✓	✓	✓	✓	✓
Nationwide[6]	✓		✓	✓				✓		✓		✓	✓	✓	✓
Safeco	✓	✓	✓	✓			✓			✓				✓	✓
20th Century[3]	✓			✓	✓							✓			

Footnotes:

1 Aetna also offers discount for less than a 3 mile commute to work, or pleasure driving only.

2 Mercury also offers special rates for full time college students.

3 20th Century also offers a professional group discount for engineers, scientists and educators.

4 Auto Club adds a surcharge for customers with no prior insurance.

5 Fireman's does not add surcharge if violation is minor.

6 Nationwide adds a surcharge for previously uninsured drivers.

DRIVERS & ZIP CODES

DRIVER 1:

Unmarried female, age 55; not employed; drives 1982 Chevrolet Citation, V-6 engine, 4-door hatchback; pleasure driving only; has no traffic violations or accidents in the past 3 years; no other drivers.

DRIVER 2:

Married male, age 25; electronic technician; drives 1984 Toyota Corolla, 4-door sedan, 4-cylinder, automatic; drives to and from work, 5 miles each way; has no traffic violations or accidents in past 3 years; no other drivers.

DRIVER 3:

Married male, age 60; physician; drives 1985 Dodge Omni, 4-door hatchback, 4-cylinder; drives to and from work, 16 miles each way. Occasional drivers: wife age 55, son age 17. Son is 100% at fault for one accident causing $400 worth of collision damage to Omni in 1985. Wife has 1 moving violation, but no other citations or accidents in past three years. Son has completed Drivers Training course and has a B average in school.

All drivers drive 10,000 miles annually and have been licensed in California since age 17.

ZIP CODES:

92114—Southeast San Diego (Encanto)
92116—Normal Heights, University Heights, Kensington area. 92119—San Carlos area.

How To Use This Survey

Like all of CALPIRG's consumer price surveys, this auto insurance survey underscores one main point: Shop Around. Consumers need to shop around not only to find the best price for themselves, but also to stimulate competition such that, overall, prices in the marketplace are fair.

Auto insurance is a particularly complex subject to survey since the price of the product changes from one consumer to the next, depending on many factors such as the individual's age, gender, marital status, driving record, zipcode, what coverage level is desired and more. If we had the resources, we could present many more than the 18 combinations below. But even then, we couldn't nearly report all of them.

The purpose of this price comparison is to illustrate the wide variance in rates, both within the same "driver profile" and zipcode category and between profiles and zipcodes. The fact that rates can vary drastically for the same person within the same zipcode should serve to encourage you to obtain quotes from many companies to find a reasonable price. Price changes that stem from driver and zipcode changes should peak your interest as to how these rates are set (which the article on page one will inform you about).

For Driver 3 within the 92114 zipcode, the price difference is startling. At the same standard coverage level, a family with this type of imperfect driving record could pay $281 with Amica Mutual or $910 with the Automobile Club—a difference of $629.

Similarly, at the higher coverage level, Driver 1 who has a clean record in 92114 could pay $344 with 20th Century, or $382 more with the Auto Club.

Also notice how the zipcode you live in can alter your rate. At the higher coverage level, the Auto Club will charge Driver 2 $733 if he lives in University Heights or San Carlos, but raises the premium by $229 if he moves to Southeast San Diego.

Although you may not be able to change your address, you can seek out a company that discriminates less on the basis of your zipcode. On the above example, for instance, 20th Century's premiums varies by only $4.

Similarly, companies' rates can vary slightly or significantly for drivers with different records. For example, in zipcode 92116 at the higher coverage level, Mercury's rate increases by 62% from Driver 1 to Driver 3. By contrast, GEICO's rate increases by 314%.

Although you may not fit exactly within any of the profiles and zipcodes listed, you can appreciate the savings that can be achieved by shopping around. Company rating policies vary, and so it pays to ask for a quote from many of them. Obscure criteria may affect your own ability to get insurance from certain companies. For instance, Liberty Mutual will not insure you if your car is more than 10 years old. If you are an engineer, scientist or an educator, you're in luck at 20th Century, which offers discounts for such occupations. However, if you are unemployed, 20th Century will not insure you at all.

Misquotes

The information in our charts was obtained through surveys which were filled out by corporate representatives, and so there should be no mistakes here. However, virtually none of the written quotes we received "as consumers" from agents of the same companies turned up the same answers quoted to us by the corporate offices. Half of the time, agents gave us a figure lower than what the company gave us on our survey; the other half of the time they gave us a higher price. This serves to underscore an ongoing, widespread problem of misquoting in the industry.

Part of the misquoting problem may be due to the fact that many insurers are actually comprised of more than one company, each with a different rate structure. For example, Mercury has two companies: Mercury Casualty and Mercury Insurance. Similarly, Allstate, Safeco and others have divisions with different names and rates.

You may not be aware that you are being quoted for a particular division. Moreover, in the charts below, companies may have submitted prices from more than one division, depending on the driver profile.

Some agents may not be entirely familiar with the policies of the companies they are quoting for, as we found, and may give an erroneous quote which would later be refused by the company upon submission of the application.

The California Department of Insurance allows insurance companies to review quotes and "adjust" the quoted rate within 60 days. Adjustments may be needed if companies find additional or conflicting information on a consumer's record than was originally provided by the consumer, or if an error was made by the agent. If the agent is responsible for the erroneous quote, the company must allow the consumer to cancel the policy and, if the policy is cancelled, the company must charge the quoted price, prorated for the time the customer has been covered.

We suggest that you request your quotations in writing to protect yourself in the event of a misquote. We would also like to hear about your experiences with misquotes. Please write us a letter with the details and mail to the address on page one.

Survey Methodology

On December 8th, we mailed question-

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AUTO INSURANCE ANNUAL RATE COMPARISON[1]

Coverage Level 1:

Bodily Injury	$15,000/$30,000
Property Damage Liability	$5,000
Collision	-0-
Comprehensive	-0-
Towing and Road Service	-0-
Uninsured Motorist (Bodily Inj)	-0-
Medical Payments	-0-

Coverage Level 2:

Bodily Injury	$100,000/$300,000
Property Damage Liability	100,000
Collision	$200 Deductible
Comprehensive	$50 Deductible
Towing and Road Service	Full
Uninsured Motorist (Bodily Inj)	$15,000/$30,000
Medical Payments	$5,000

(See article on page 2 for explanation of coverage levels. Some companies offer different coverage levels which are noted in footnotes below.)

	Driver 1						Driver 2						Driver 3					
Company	92114		92116		92119		92114		92116		92119		92114		92116		92119	
Allstate[2]	280	670	346	608	228	569	260	744	246	674	228	635	782	1808	834	1672	774	1565
Amica Mutual[3]	157	418	157	418	140	382	181	630	181	630	162	583	281	956	281	956	246	861
Automobile Club[4]	324	726	264	571	264	571	349	962	283	733	283	733	910	1914	747	1507	747	1507
Fireman's Fund	160	332	160	332	160	332	182	504	182	504	182	504	808	2350	808	2350	808	2350
GEICO[5]	291	463	291	463	292	456	362	708	362	708	367	680	868	1919	868	1919	904	1899
Liberty Mutual[6]	283	521	283	521	271	463	294	686	294	686	282	617	487	949	487	949	463	863
Mercury[6]	306	522	212	500	192	476	198	562	204	534	184	508	356	836	340	808	312	760
Nationwide	196	313	196	313	188	468	229	575	229	575	219	527	414	1086	414	1086	397	980
Safeco[7]		406		406		404		622		622		607	Will not cover Driver 3					
20th Century[6]	130	344	128	340	128	342	136	406	136	402	136	402	Will not cover Driver 3 as new business					
Assigned Risk	461	610	416	531	344	438	547	609	472	591	389	486	647	794	562	685	440	570

FOOTNOTES

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1 Premiums rounded to nearest dollar.

2 For coverage level 1, Allstate's property damage coverage is $10,000.

3 For coverage level 1, Amica has a $35,000 combined single limit. For coverage level 2, Amica has a $300,000 combined single limit. (See article on page 2 for explanation of combined limits.) Also, premiums listed for Amica do not incorporate dividends traditionally paid, but not guaranteed, to policy holders at end of year. Amica's latest dividend rate was 20%, which would reduce the cost of the policy by that amount.

4 Automobile Club's premium does not include membership fee, which is $49 the first year and $34 per year thereafter. Membership entitles customer to additional benefits such as travel services, vehicle registration, auto repair studies, etc. For coverage level 2, Auto Club's collision deductible is $250.

5 For coverage level 1, GEICO's bodily injury coverage is $30,000/$60,000, and $10,000 for property damage. For coverage levels 1 and 2, premiums also include GEICO's required coverage for uninsured motorists of $30,000/$60,000 bodily injury and $3,500 property damage.

6 Liberty Mutual, Mercury and 20th Century have a property damage coverage level of $10,000 in coverage level 1.

7 Safeco does not offer coverage at level 1 and does not wish to quote at their lowest coverage levels (25/50/10, 15/30 uninsured motorist).

Insurers Avoid Competition…

Continued from page one

such as rapidly rising insurance premiums, sudden policy cancellations and, in the case of auto insurance, a renewed questioning of the fairness of "territorial" rating systems.

Consequently, as it was last year, the insurance industry will be the subject of many bills to protect consumers in the upcoming legislative session in Sacramento.

Territorial Rating

If you move from Eureka to Santa Monica and your auto insurance premium jumps from $308 to $832, even though you, your driving record, and the car you drive are the same, you will quickly understand what the territorial rating system means.

Insurance companies use territorial rates to differentiate between areas—even neighborhoods—that have higher accident rates, more litigation and a large number of valuable vehicles.

This is just one of many classification factors used by insurance companies (others include gender, age, marital status and occupation) which are inequitable to individuals for three reasons. First, as explained in the report to the Assembly, classification is *not* based on the idea that a particular individual is expected to have an accident while the policy is in force. Rather, it is based upon expectations for the group to which the individual belongs.

Second, classification factors that distinguish an individual are not themselves likely to be accident-causing characteristics. For example, being married in and of itself does not decrease the likelihood of an accident in any way, whereas the number of miles driven per year does.

Classification factors are used as surrogates for direct measures of risk, such as mileage, which could be checked directly through odometer readings.

Third, classification factors may not be soundly based on fact even as *indirect* indicators of driver ability. Since insurance industry data has not been made available to the public, nor even to analysts commissioned by the government, such rationales have not been scrutinized.

There are some detectable flaws in methods used for calculating risk factors, however. For example, a couple with a 20-year old son is put into the rating category for the 20 year-old. If one of the parents causes an accident, the accident will be recorded as occurring within the driver classification for young single males.

The Assembly report did find evidence that the territorial rating system is out of sync. While accident claims are higher in Los Angeles by 41%, accident-free drivers in that city pay 66% more than accident-free drivers in the state as a whole.

On the whole, then, the territorial rating system has made auto insurance extremely expensive, and thus unaffordable or totally unavailable in poor communities since these areas tend to have high traffic densities. People who live in these communities are bearing the price for people who drive in them.

The problem is exacerbated by the fact that individuals have no recourse to challenge rate increases or coverage denials.

Legislators have been reluctant to prohibit territorial rating systems because if high rates come down, others will have to go up. Consumers benefiting from the low rates will not support such a change, even if it is more equitable.

The irony of these types of classification factors is that, since they bear no direct relation to safe driving, they do not serve to encourage it. Unfortunately, driving records and number of miles driven per year are not the primary factors in establishing rates; if they were, then rate setting would encourage good driving habits, and promote less driving. Indirect measures of driver ability could still be used, but only as secondary factors to the extent that they are truly statistically related.

Mandatory Insurance

In 1984, when the California Legislature added enforcement sanctions to an existing state law which requires motorists to have insurance or post evidence of financial responsibility, it created a furor because classification rating systems can make insurance unaffordable even for people with perfect driving records.

The law was challenged at the State Supreme Court level because, civil rights lawyers argued, the state cannot require people to carry such basic insurance if it does not take steps to ensure that insurance policies are available and that prices are set fairly.

The state itself will probably become more involved in providing insurance to make sure that it is available and affordable to everyone, especially if the lawsuit is won (the court's decision is now pending). In other words, it will have to pick up where the industry leaves off, since insurance companies tend to want to cover only "good risks."

This avoidance of higher-risk consumers by the industry has been criticized by consumer advocates who argue that since insurance is the business of risk coverage, it is unfair for the industry to capture only profitable sectors of the market and leave the less profitable sectors to the government. Steven Miller of ICAN asserts that the industry "socializes the risk and privatizes the profit."

Assigned Risk

The Assigned Risk Plan (APR) is where consumers end up if the auto insurance industry refuses to cover them. And, as selection competition—the practice of competing for the best risks—increases, so does the number of consumers in the ARP.

All companies in the state must belong to the ARP, which they operate, but whose rates are set by the state. As a result of the industry's selectivity, 39% of the people covered by the ARP have "clean" driving records, and yet, in most cases, they pay much higher rates—clearly unfair and evidently discriminatory. What's worse, California's ARP provides the poorest coverage in the nation at the highest prices, according to the Assembly report.

What's the Alternative?

This is not the way it has to be. In Michigan, for example, the legislature mandated that insurance policies be written according to risk-related factors and applied objectively. They adopted a definition of a good driver and required all insurers to cover such drivers at reasonable rates. Drivers with poor driving records must bear the consequences of their actions in the higher-priced market.

Insurance has become a practical necessity in our society, if not a legal one. That's why it is essential that the insurance marketplace function in a competitive and equitable manner.

To realize such an environment, it would help if the industry would respond to consumer surveys. If not, legislative solutions may be the only option available. ■

Two people deserve special thanks for contributing to the production of this complicated issue of CALPIRG REPORTS: *Norm Abrahams for his many hours of volunteer assistance, and Steven Miller for lending his expertise on the subject.*

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Consumer Problem?
Call CALPIRG's Consumer Assistance
HOTLINE

279-9409
Monday & Tuesday 9–2
Wednesday & Thursday 1–4

Understanding…

Continued from page two

traffic-dense areas will raise your rates considerably. (See article, page one.)

Type of Car. The more expensive your car is and the more costly it is to repair, the more you'll have to shell out for physical damage coverage. Differences in rates for various makes and models of cars can be quite substantial, so you should consider insurance costs when you are in the market for a car. Sports cars are more expensive and sometimes impossible to insure; rates can be double that of other types of cars.

Driving Pattern. Driving fewer miles can save you a lot. If you carpool to work you will pay much less than if you commute more than 15 miles each way in your own car every day, and you will pay even less if you use your car for pleasure driving only.

Quality of Service

The advantage of lower rates must be balanced with the quality of a company's service. But fear not, a recent study by *Bay Area Consumers' Checkbook* has shown that there are lower cost companies which also rank high on quality. Of the companies who responded to our survey, *Checkbook* gave top ratings to Aetna, Auto Club, Nationwide, and 20th Century.

For complete comparative information on claims satisfaction, consult the Summer, 1986, edition of *Consumers' Checkbook*, and the September, 1984, issue of *Consumer Reports*.

Consumer Reports is available at your local library, and you can send a stamped self-addressed envelope to CALPIRG to obtain a copy of *Checkbook's* claims survey. For the State Department of Insurance's free brochure entitled "Buyer's Guide to Car Insurance" send a self-addressed, stamped envelope to them at 600 S. Commonwealth Ave., Los Angeles, CA 90005.

If No One Will Insure You

The last resort for individuals who cannot obtain insurance from the "preferred" companies or from the few that specialize in high-risk drivers is the California Automobile Assigned Risk Plan. To qualify, you must certify that an agent, broker, or more than one insurance company has refused to insure you within the last 60 days.

You will then be assigned to a regular company likely at a rate higher than you would pay in the normal marketplace. All insurance companies are assigned a certain percentage of high-risk drivers from the state's assigned risk plan. You will be charged the same amount no matter where you are placed. After a year or so on the assigned risk plan, you should try once again to get coverage in the voluntary market. ●

How to use…

Continued from page three

naires to 20 insurance companies that account for more than 75% of the auto insurance business in California. (As we elaborate on in the article on page one, many companies unfortunately chose not to respond. These companies were: Aetna, California Casualty, Civil Service Employees, Farmers, Hartford, Mutual of Omaha, Prudential, State Farm, INA and USAA.)

As presented here, we asked for the rates of three "driver profiles"—drivers with different characteristics—at two coverage levels, in three zipcodes—18 quotes altogether. (See description of drivers on page two.) The zipcodes and profiles were selected in order to yield low, middle and high price ranges so that companies could be compared in various settings.

Some companies do not offer the exact coverage levels we asked for, so they quoted for the next closest level. Such differences are footnoted. We asked for rates as of December 10, 1986; rate changes may have occurred since then. Relative pricing tendencies across companies are likely to remain the same, however.

Price, of course, is not the only factor to be considered when shopping for insurance. Claims satisfaction and service must also be reviewed (see referrals for claims satisfaction surveys at the end of article on page two).

Unfortunately, concrete information on a company's actual history of paying claims is not available. This type of information, as well as comprehensive price surveys, are vital if effective price competition is to exist in the marketplace.

Our experience and that of others has shown that such information is difficult to obtain and understand. Although surveys like ours can help, as can your own efforts, a more intensive and regular effort to provide information should be undertaken by our Department of Insurance so that consumers have the tools which will guarantee a competitive market situation. ●

1987 Credit Card Survey

CALPIRG
REPORTS

CALPIRG 2187 Ulric Street, Suite B, San Diego CA 92111 (619)279-5552

Volume 14, Number 5 February, 1987

Credit Cards: Consumers Urged to 'Fight & Switch'

In 1981, when the prime lending rate (the rate banks charge their best corporate customers) was over 18%, it was understandable that credit card rates would also be high. But while the prime rate has fallen by more than 50% since then—currently at 7.5%—many credit card rates have hardly budged.

The declining cost of money over the past five years has led to lower interest rates for all other types of consumer accounts, including auto loans, home mortgages, and personal loans. But, for credit cards, an unjustifiable gap exists between the 5.5% discount rate that banks pay for money from the Federal Reserve and the standard 18% rate at which they lend it out to credit card holders. This gap was a significant factor in the banking industry's gain of five billion dollars in pretax profits last year; for some banks, up to a third of these profits came from credit card operations.

Consumer groups across the country, led by Consumers Union (publisher of Consumer Reports Magazine) and including CALPIRG, have declared war on high credit card rates. Our "Fight and Switch" campaign calls on consumers to fight excessive credit card interest rates by:

- switching to a lower rate credit card;
- refinancing existing high-interest rate credit card debt with a cash advance on a lower rate card or with a low-interest rate consumer loan; and
- writing to your elected officials in Sacramento and Washington D.C. supporting legislation to cap credit card interest rates.

LONG DISTANCE SURVEY, PAGE 4

If consumers switch to credit cards with lower rates, it will increase the competitive pressure on banks to bring rates down. Since some banks have bank card rates as low as 10.5%, it is obvious that there is plenty of room for competition.

Indications are that the campaign is beginning to have some effect. Chase Manhattan, the third largest issuer of cards, recently lowered its Visa and MasterCard rates from 19.8% to 17.5%. First Interstate has announced a new card which will be offered to existing card holders in April; it will have a variable rate predicted to be 16.5%.

In this issue of *CALPIRG Reports* you will find the information you need to get a fairer deal. Chances are, you are paying more than you have to since the largest banks in the U.S. tend to have higher rates than the national average of all banks, which is about 18%. And rates in California are higher than anywhere else in the country. Of the Visa and MasterCard bank cards in circulation, one in every four came from: Citibank (19.8%), Bank of America (19.8%), Chase Manhattan (lowered to 17.5% effective 2/1/87), Manufacturers (17.8%), First Chicago (19.8%) or Chemical (19.5%).

Consumers In Debt

In 1986, *The Nilson Report*, a credit industry newsletter, reported that 75 million American consumers carry 186 million bank credit cards. At the end of 1986, Visa and Mastercard users owed $84.4 billion. "Convenience" credit card users, those who pay their balance off each month and therefore don't pay any interest, were responsible for 13.6 billion of the year-end debt.

The remaining 70.8 billion is owed by 36.9 million consumers who carry a balance forward month-to-month, each owing an average of $1,919 ($780 per card based on the current average of 2.46 MasterCard and/or Visa cards per person).

The 70.8 billion will generate over $12 billion in interest payments for banks, assuming the national average interest rate of 18%. That translates into $1 billion a month or $33 million a day.

Beyond the billions banks earned in interest, $3.2 billion was collected from consumers in 1985 in the form of annual fees, late charges and over-limit fees. Such fees were uncommon five years ago. Additionally, banks collected $3.2 billion from merchants who must pay a fee of .5% to 5% on every credit card purchase, according to *The Nilson Report*.

Most consumers do not have to pay so much for their credit, however. Since credit cards are available at rates as low as 10.5%

Debtors' prison, 1986.

Reprinted with permission of [illegible]

(usually with higher eligibility requirements), consumers can save up to $100 in interest per year on each credit card, as well as up to $45 in annual fees per card (the highest fee being $45 and the lowest being zero.)

What About the Extras?

Many banks offer "extras" in connection with their cards. Citibank card holders, for example, are offered "Citidollars"—for a membership fee—which reduce the cost of certain pieces of merchandise which are offered through the card. Other banks offer rebates on hotels, restaurants and air fares. But, according to Spencer Nilson, publisher of the industry-respected *Nilson Report*, these benefits "are a bunch of junk; most of them are never used," the Washington Post reported.

No Disclosure

According to a national survey, most big banks refuse to clearly disclose the interest rates and fees they charge on their pre-approved applications. Nor do they include these costs in their advertisements, which makes it difficult for consumers to comparison shop. The "fight and switch" coalition contends that this "conspiracy of silence" on credit cards has prevented the marketplace from operating efficiently and has allowed the major banks to over-charge with high rates.

As of October, 1987, however, any institution offering credit cards to California residents will be required to fully disclose the interest rates, fees and other important terms of the cards they advertise. This disclosure law was the result of a compromise last year over a bill which would have capped interest rates, tying them to five points above the rate of a six-month Treasury bill. Similar bills have been introduced in Congress, but, unfortunately, they have been defeated by the powerful banking lobby.

Consumer groups are ready for another fight this year, however. In California, Assemblyman Rusty Areias has introduced AB 2, similar to the bill he introduced last session (described above). If such a law were in effect now, the maximum credit card rate would be 10.5%, since the current T-bill rate is 5.5%. Areias' bill would also require written notification to card holders of changes in rates before they take effect.

Another bill by the Assemblyman, AB 325, would place a cap on retail credit cards (e.g. department store cards). Currently, the legal limit is 19.2%, which is what most, if not all, of them charge.

If rates remain high despite consumer-generated competition, it will bolster the need for a legislative solution. Some states have already taken action: Rhode Island lowered its rate ceiling from 21% to 18%, and in Connecticut banks can charge a maximum of 15%. If banks in California don't voluntarily reduce rates soon, our legislature should follow suit. ●

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About Our Credit Card Survey

Finding a Fair Deal

If you're like 37 million other consumers who carry an average credit card balance of over $1,900, you probably try not to look at how much you're paying in interest each month; it's too painful. But take a deep breath and think of this: if your credit card charges 19%, you are paying $361 per year in interest. Switch to a 15% card and you'll save $76 every year — and up to $83 more if you can qualify for a card with an even lower interest rate.

We found six San Diego institutions which charge less than 16.5% interest, and 17 more in California and across the nation which will accept applications from San Diegans. (No matter which bank issues a Visa or MasterCard, they are accepted uniformly by merchants since Visa and MasterCard are separate corporations which guarantee all member institutions' cards issued in their name.)

Look at our charts to find an institution with a low interest rate and/or a low/no annual fee. In general, the better your credit is, the lower the rate you will be able to qualify for. But, since some banks have more lenient requirements than others, don't assume that you won't be able to qualify for a low rate.

Try to find out from the card issuer what your chances of qualifying are before applying, since, if you are denied, that denial may be passed to your credit record.

Fee Vs. APR

Which is better: a no-fee card or a card with a low annual percentage rate? Many consumers like the idea of a no-fee card, but low annual rates can save you more, depending the amount of your outstanding balance. If you pay your entire balance off each month, of course, you don't pay any interest at all, and therefore a no-fee card is your best choice.

(Almost every bank we surveyed in the San Diego area has a no-interest grace period—except for cash advances—if the balance is paid off in full each month. The only institutions which do not offer a grace period are Great American Savings and Sears Savings Bank.)

If you carry a relatively low balance of $500, you will save $20 per year by switching from a 19% card to a 15% card. The same savings would be achieved by switching from a card with a $20 annual fee to a no fee card. But if your balance is higher than $500, you'd be better off with the lower rate. Better yet is a card with a low or no fee and a low interest rate.

Fees, Fees and More Fees

With competition for low-rate cards heating up, many banks are increasing fees to keep profits up. Annual fees, cash advance fees, late fees and fees for exceeding the credit limit have been on the rise for the last five years.

Cash advance fees of up to 4% can be a hefty price to pay on top of the interest rates you'll pay for the cash, and most banks do not have an interest-free grace period for cash advances, even if you pay the entire amount off on the first bill. If you are transferring your balance from a high-rate card to a lower-rate card by taking a cash advance, make sure that the fee isn't so high that it negates the savings from the reduced interest rate. (Ask if there is a maximum cap on the percent charged for a cash advance.)

Late fees and fees for exceeding your credit limit can also be excessive—up to $15 each. If you tend to keep your balance near your credit limit, and occasionally go over it, you don't want a card that will sock you with a $10 fee every time you go over by a just a dollar. Many banks will let you exceed your balance by 5 to 10% before assessing a fee; others charge none at all. Most, however, will require that you pay the entire amount over the limit in addition to the regular monthly charge.

If you tend to pay your bills late, watch out for banks with late fees, which can add up fast at $10 apiece. Be aware, though, that even though some banks don't assess charges, they may discontinue your card if you make too many late payments, or if you go over your credit limit by too much too many times. Both of these problems may also end up on your credit record.

We weren't able to survey all the fees and policies of out-of-area banks, as we did of San Diego institutions, so you should find out for yourself what such charges are before signing up with one of those banks. Ask for the kind of information that we have provided on page three.

If you're on a tight budget, you may prefer a low monthly payment. The chart on page three lists what each institution charges each month (usually calculated as a percentage of the total amount you owe). If you can afford to pay more, however, you should since interest is adding up. In fact, some banks may purposely assess low monthly payments so that they earn more interest on the higher leftover balance.

Variable Rates

Variable credit card interest rates can be a good deal, especially with current market rates as low as they are, with no increases predicted for the near future. Since many variable rates are tied to three-month Treasury Bills, rate changes will occur every three months. If those rates decrease, you'll benefit too, although the card may have a "floor" which the rate will not go under. If rates rise too high, you can always change to another card.

Survey Methodology

CALPIRG surveyed the rates and fees of each San Diego institution "as a consumer" during the week of February 9, 1987. The information gathered was then mailed to an official at each institution along with a letter requesting verification of the information by February 24. Most banks cooperated, correcting whatever misinformation had been given out by their employees; in most cases, there were some mistakes. A few institutions did not return the verification sheet, or our follow up phone calls, in which case we assumed the information to be correct, although we called one more time "as a consumer" to check it ourselves.

The "fight and switch" campaign is an attempt to let a competitive marketplace solve the problem of exorbitant credit card interest rates. You can help just by switching to a bank with a fairer interest rate. ●

LOW INTEREST RATE CREDIT CARDS

(Outside San Diego Area)

The institutions below accept applications from California residents. Information was gathered by Consumer Action, BankCard Holders of America and CALPIRG. Rates are as of January 14, 1987, and are subject to change.

(V) = Visa (MC) = MasterCard

IN-STATE BANKS

Institution	Annual Fee	APR on Balance	Fixed or Variable Rate	Grace Period
[illegible] S & L (V) [illegible]	[illegible]	[illegible]	Variable	Yes
[illegible] Savings (V) [illegible]	[illegible]	[illegible]	Fixed	Yes
[illegible] Federal Savings (V, MC) [illegible]	[illegible]	[illegible]	Variable	No
Sacramento S&L (V) [illegible]	[illegible]	[illegible]	Fixed	Yes
San Francisco Federal S&L (V) [illegible]	[illegible]	[illegible]	Variable	Yes
Santa Barbara S&L (V) [illegible]	[illegible]	[illegible]	Fixed	No
Valley National Bank (V, MC) [illegible]	[illegible] [illegible]	[illegible] [illegible]	Fixed Variable	Yes Yes
OUT-OF-STATE BANKS (XX) = State Where Institution Located				
Bank of New England Old Colony (V) [illegible]	[illegible]	[illegible] *	Fixed	Yes
Connecticut Bank & Trust (V, MC) [illegible]	[illegible]	[illegible]	Fixed	Yes
[illegible] Savings Bank (V) [illegible]	[illegible]	[illegible]	Fixed	Yes
First Security Bank (V, MC) [illegible]	[illegible]	[illegible]	Variable	Yes
Manufacturer's Bank (MC) [illegible]	No fee	[illegible]	Variable	No
People's Bank (V, MC) [illegible] (CT)	[illegible]	[illegible]	Fixed	Yes
[illegible] National Bank (V) [illegible]	[illegible]	[illegible]	Fixed	No
Republic National Bank (V, MC) [illegible] (FL)	[illegible]	[illegible]	Variable	Yes
Simmons 1st Nat'l Bank (V, MC) [illegible] (AR)	[illegible]	[illegible]	Variable	Yes
Twin City Bank (V, MC) [illegible] (AR)	[illegible]	[illegible]	Fixed	Yes
Union National Bank (V, MC) [illegible] (AR)	[illegible]	[illegible] **	Variable	No

* Rate will be increasing to [illegible] as of June, 1987 ** Rate will be increasing to [illegible] as of June, 1987

OTHER SAN DIEGO CREDIT CARDS

San Diego Trust & Savings Bank handles the credit cards of the following San Diego area institutions; their rates and fees are the same as those listed for SDT&S on page three.

American Valley Bank
Balboa National Bank
Bank of Commerce
Bank of Coronado
Bank of La Costa
Bank of Rancho Bernardo
Bank of San Diego
Bank of Southern California
Borrego Springs Bank
Capital Bank of Carlsbad
Citizens Western Bank
Cuyamaca Bank
Escondido National Bank
First National Bank
First Western Bank
Hidden Valley Bank
International Savings Bank
La Jolla Bank & Trust
National Bank of [illegible] Beach
North County Bank
Pacific Commerce Bank
People's Bank
Rancho Santa Fe National Bank
Rancho Vista National Bank
San Diego National Bank
Scripps Bank
Valle de Oro Bank

The Marine Midland Bank/National Credit Group handles the credit cards of the following San Diego area institutions; their rates and fees are the same as those listed for Marine Midland on page three.

Central Savings & Loan
Coast Savings & Loan
Downey Savings & Loan
Glendale Federal S & L
Gibraltar S & L
National Bank of La Jolla
Valley Federal S & L
World Savings & Loan

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CREDIT CARD RATES & FEES

(San Diego Area Institutions

▭ = Interest Rate less than 16.5%

Institution	Cards Offered	Annual Fee	Annual Percentage Rate 3	Minimum Payment[4]	Chk Guar/ Overdraft[12]	Cash Advance Fee/ Minimum Fee[5]	Late Fee/ Grace Period[21]	Fee for Exceeding Limit 2
American Savings	Visa	$20	18%	5% $10 min	CG OD	4% $2 min	$5 no grace	$5
Bank of America	Visa, M/C Premium Visa	$18 $36	19.8% 19.8%[13]	4% $10 min	OD	2% no min	$5[13]	none
California Commerce Bank[1]	Visa, M/C	$20	21%	3% $10 min	–	3% $2 min	$5/21 day grace	$10
California Federal	Visa, M/C	$15	16.99% – 19%[6]	4% $10 min	–	3% no min	$5 no grace	$5
California First Bank[15]	Visa, M/C	$18	19.8%	4% $10 min	–	4% no min	$5/25 day grace	none
Citicorp Savings	Visa, M/C	$20	19.8%	2.8% $20 min	–	2% $2 min	$5/1 mo. grace	none
Discover Card	Discover Card	none	19.8%	3.3% $20 min	–	$0.95[7]	$5/10-15 day grace	none
First Interstate	Visa, M/C	$15	21%[16]	3% $15 min	–	2% no min	$3 no grace	$10 if 10% over limit
First Nationwide	Visa Gold Card	$20[17] $40[17]	16.8% 16.9%	3% $10 min	OD	1½% no min	$5 no grace	none
Great American	Visa, M/C Premier Visa, Gold M/C Variable Rate Visa Secured Visa	$20 $40 $45 none	18.0% 18.0% 16.2%[18] 13.0%[19]	3% $20 min	CG	3%-reg cards 2%-Premier/Gold no min	$10 - 10 day grace	$10 if 5% over limit
Great Western	Visa Premier Visa	$20 $40	19.8% 19.8%	3% $20 min	CG OD	2% $2 min	$5/7 day grace	none
Grossmont Bank	Visa, M/C	$15	19.8%	4% $10 min	CG	3% $2 min	$10/10 day grace	$10
Home Federal	Visa, M/C Premium Visa, Gold M/C	$15 $36	19.8% 19.5%	3% $10 min	CG OD	3% no min[7]	5%-$5 max 15 day grace	$5
Home Savings[1]	Visa, M/C Gold Card	$15 $25	18% 16%	4.0% $10 min	CG OD	2% $2 min	5%-$5 max no grace	none
Household Bank	Visa Visa	none $20	19.8% 17.6%	3% $15 min	–	2% $2 max	5%-$5 max 10 day grace	$10
Imperial Savings	Visa Preferred Visa	no fee $35	19.8% 17.9%[14]	3% $20 min	–	2% in branch 4% at ATMs	$5/10 day grace	none
Marine Midland Bank (see box, p.2)	Visa, M/C Gold Cards	$20 $30	20.0% 14.95%[8]	3.0% $10 min	OD – depends on branch	$1.25 at ATMs 1% in branch no min	$10 10 day grace	$15 if over by 5%
Mitsubishi Bank	M/C Diamond M/C	$12 Max[9] $12 Max[9]	18.6% 16.8%	3% $20 min	CG OD	2% no min	$5/3 day grace	none
Pacific Coast S&A	Secured Visa	none	8%- 12%[20]	3% $20 min	OD	2% $2 min	none	none-may cancel card
San Diego Trust & Savings (see box, p.2)	Visa, M/C Gold M/C	$18 $35	19.8% 19.8%	4% (Gold M/C 3%) $10 min	CG OD	3% in branch 2% at ATMs $2 min	$9 10 days grace	$9 if over by 10%
San Dieguito National Bank	Visa, M/C	$20	19.8%	5% $20 min	–	2% $2 min	$5/7-10 day grace	none
Sanwa Bank	Visa, M/C	$15	17.28%	3% $10 min	OD	2% no min	$5 no grace	none
Sears Savings Bank[1]	Visa	$15	18%	3% $20 min	CG OD	none	none	none
Security Pacific Bank	Visa, M/C Premium Visa, M/C	$18[10] $40[10]	16.4% to 20.4%[11]	4.0% $10 min	CG	2% w/account 4% w/out no min	If balance – less than 3,000 – $5 – more than 3,000 – $10	$10
Sumitomo Bank	Visa	$12	19.8%	4% $10 min	CG OD	2% (ATMs no min Branch $2 min	$5 no grace	none
US Community Savings	Visa, M/C Gold Card	$15 $36	19.5% 18.96%	Reg 2.8% Gold 1.7% $20 min	–	3% no min	5%-$5 min no grace	$10 if 5% over. Account will be closed
Wells Fargo Bank	Visa, M/C Gold M/C	$18 $45	20% 19.8%	3% $15 min	CG OD	2% $5 min[7]	5%-$3 min no grace	$10 if over by 15%
Western Financial	Visa, M/C	$20	19.8%	5% $20 min	–	none	$5; 45 day grace	$5 if over by 10%

FOOTNOTES

[1] These institutions (California Commerce, Home Savings, and Sears Savings Bank) require consumers to have a checking or savings account to qualify for credit card. Home Savings' home loan customers also qualify.

[2] Unless noted otherwise, the fee for exceeding the credit limit is assessed when the limit is exceeded by any amount, for each statement that the balance is exceeded. Some do not charge a fee until the limit is exceeded by a certain percent, as noted.

[3] If the entire balance is paid off each month, none of the banks charge interest, except Great American Savings and Sears Savings Bank which do not offer such a grace period.

If the consumer does carry a balance from one month to the next (does not bring balance down to zero each month), interest charges do accrue. Most banks charge interest as of the date the transaction is posted to the credit card, but some banks will start interest charges on the first day of the statement period during which the transaction was posted, or on the first day of the statement period after the transaction was posted.

Most banks exclude cash advances from their interest-free grace periods.

[4] Monthly payments are calculated using a percentage of the new balance. If the balance is small, there is a minimum amount that will be charged. (This charge will not exceed the balance, however.)

[5] Cash advance charges are usually a percentage of the amount advanced, with a minimum dollar amount, as indicated. Most banks do not have an interest-free grace period for cash advances.

[6] California Federal charges 16.99% interest for cardholders who have checking or savings accounts with Cal Fed. Otherwise, cardholders pay 19%.

[7] Credit card checks are also available. Discover checks are $0.95 per use; Home Federal charges 2% of the amount of the checks and Wells Fargo charges $4 per use.

[8] Marine Midland's Gold Cards have a variable rate of interest which is nine points over the current rate of a 30-day certificate of deposit, with a floor of 14.95%.

[9] Mitsubishi Bank charges $1 per month in which a purchase is posted, $12 maximum.

[10] If consumer has both Visa and M/C, Security Pacific will charge only one annual fee.

[11] Security Pacific offers interest rates as low as 16.4% if customer has accounts with the bank.

[12] In order for a credit card to serve as a check guarantee card or for overdraft protection, an account must be maintained with the bank that issues the credit card. Consumers must apply for both services, and some banks have other requirements as well, such as having a one-year relationship with the bank.

[13] Bank of America does not assess a late fee if a consumer carries a balance in its discount merchandising sub-account, and charges 19.2% on items purchased under that account.

[14] Imperial Savings offers a 1% rebate when customers transfer their balance from another bank's Visa to Imperial's Visa.

[15] California First Bank is re-evaluating its credit card products and expects changes in 1987. Contact bank for details.

[16] First Interstate will be offering a variable rate of 9 points over the prime rate (currently 7.5%) to existing card holders as of April 1.

[17] First Nationwide will waive half of the annual fee for Visa customers with a $10,000 balance, and the entire fee for a $20,000 balance. For Gold Card customers, half the fee will be waived with a $20,000 balance.

[18] Great American's variable rate is 10.53 points above the 90-day certificate of deposit rate (which is currently 5.66%).

[19] Great American's secured Visa card has a line of credit equal to 90% of funds held in a G.A. account.

[20] Pacific Coast's secured Visa card requires a balance of $2,000 in a checking or savings account. 50% of balance kept is available as line of credit. With a 1.5% passbook account, credit card interest rate is 8%; in any other account, the rate is 12%.

[21] Some institutions will assess a late fee as soon as the payment due date passes; others have a grace period beyond that date, as noted.

Long Distance Companies Reduce Rates

As a result of an average 11% decrease in AT&T's interstate long distance rates, which took effect in January, every other long distance company has lowered its rates to remain competitive with the industry giant.

The Federal Communications Commission (FCC) ordered the decrease in December, 1986, which reduced AT&T's daytime rates by 14.5%, its evening rates by 9.3%, and its night/weekend rates by almost 6%. Since AT&T's government monopoly was broken up in 1984 to allow competition in the long distance marketplace, rates have fallen by 30%.

While the latest decrease is welcome, it benefits the business sector more than residential customers since residents make about 86 percent of their calls in the evening and night/weekend time periods, which received a smaller reduction than daytime rates. Businesses do the bulk of their calling during weekday hours.

The reductions also come at time when the costs of overall telephone service are being shifted to customers who make primarily local phone calls: residential and small business users. Local phone costs have increased almost 40% since the divestiture of AT&T, making phones less affordable for low-income families and burdensome to small businesses.

The "access charge" — a mandatory fee which appears on the local phone bill — accounts for much of the cost shifting. The charge is now $2 per residential line and $6 per business line, but current FCC Chairman Mark Fowler has indicated that he may attempt to raise it before he leaves the agency this spring.

To deter that action, consumer groups are supporting H.R. 782 (Wyden, D-OR) which would freeze phone access charges at their current level and give Congress sole authority to raise them, rather than the unelected agency officials.

The Survey

Since the long distance marketplace is difficult to keep up with, CALPIRG has surveyed the new rates of all long distance companies and ranked them for three types of calling patterns.

When shopping for a long distance company, consumers need to look beyond the per minute rates offered by each company and consider two additional factors that will have a significant impact on how the companies compare: the billing policies of each company and personal calling patterns.

All but two companies offering service to San Diegans use full minute billing increments. Full minute billing means, for example, that if your phone call lasts for six minutes and 12 seconds, you will be billed for seven minutes.

The only exceptions to full minute billing are TMC of San Diego and Com Systems which use six-second billing increments — a more accurate method of billing for the actual length of calls. Those companies would bill you for six minutes plus two-tenths of a minute on the above example. This policy can make a significant difference on their overall cost, which is taken into account in the rankings.

Since policies like these as well as overall marketing strategy affect the rating structures that each company devises, it is important to judge each company by how well it fits your own calling patterns. Differences in calling habits such as the length of the calls you make and the time periods in which you make them will determine which company best suits your needs.

The best way to figure out what your calling habits are is to look at your phone bills. Determine the cities you call, the time periods in which you call, and how long your calls last. Then use the rate chart below to determine what each company would have charged for each of these calls. If you are with a company that bills in full-minute increments, your bill will show even minute calls. But remember that few calls end exactly on the minute, so when you calculate for companies that bill in six-second increments, take that policy into account. For example, if your current company billed you for a 12 minute call, calculate what six-second billers would have charged for an 11-1/2 minute call.

The Rankings

To illustrate the difference that calling patterns and billing policies can make, we have ranked the long distance companies based upon three different calling patterns using industry statistics for the average length of calls that are made during day, evening and night time periods.

The ranking for the daytime calling pattern was arrived at by calculating the cost of three phone calls — a 1.5 minute call, a 3.5 minute call and a 6.5 minute call — averaging 3.83 minutes, to each of the six cities we surveyed (18 calls total for each company). Companies which round up to the nearest minute for billing purposes were assessed charges for 2, 4 and 7 minute calls, which average 4.3 minutes.

Since businesses tend to make phone calls which average four minutes during daytime hours, the daytime ranking reflects a business calling pattern.

Similarly, the evening and night/weekend rankings reflect residential usage since individuals tend to make longer phone calls during evening and night/weekend time periods. For the evening ranking, we calculated the cost of three calls — 7.5, 10.5 and 13.5 minutes — averaging 10.5 minutes for the six-second billers. For full-minute billers, we used an 11 minute average, calculating for 8, 11 and 14 minute calls.

For the night time ranking, we used three calls — 7.5, 10.5 and 12.5 minutes — averaging 10.16 minutes for six-second billers, and a 10.66 average for full-minute billers — 8, 11 and 13 minute calls.

As you can see by the charts below, the rankings change as do the calling patterns. For instance, while ITT ranks in the middle for the daytime/business calling pattern, it ranks much better for the residential evening and nighttime calling patterns.

This demonstrates how much calling patterns affect the relative prices of each company, and why it may require some work of you to arrive at the best conclusion. It is also important that you understand the policies of each company in order to judge them accurately.

Volume Discounts & WATS

The volume discount policies of each company are another important factor to consider, especially if your bills run over $100 (although some companies offer a discount for bills as low as $15). If you don't already have it, send for CALPIRG's 1986 long distance issue for details on volume discounts as well as other policies. (Be sure to indicate "1986" and mail a self-addressed, stamped envelope to the address on page one.)

If you have a business with an even larger volume of calls, you may want to inquire about the WATS line services of each company, which have further discounted rates. ●

Special thanks to Andrew Rey for creating the computer program which calculated our cost comparisons.

LONG DISTANCE RATE COMPARISON

(In cents per first minute/additional minute)

Rates accurate as of March 2, 1987

Intrastate Company Name	Time Period	Los Angeles (120 miles)	Fresno (336 miles)	San Francisco (500 miles)	Phoenix (321 miles)	Chicago (1724 miles)	New York (2421 miles)
Allnet 800-982-8888	D	44/26	50/31	50/31	38/28	32/30	34/32
	E	35/19	40/23	40/23	16/16	21/18	23/20
	N/W	23/13	27/15	27/15	13/13	14/14	15/15
AT&T 800-222-0300	D	41/24	43/27	44/28	34/28	37/31	40/32
	E	32/19	34/21	35/22	21/17	23/19	24/19
	N/W	24/14	25/16	26/16	15/13	17/14	18/15
Com Systems * 619-450-9009	D	19/19	21/21	21/21	23/23	24.5/24.5	24.5/24.5
	E	17/17	17/17	17/17	17/17	17/17	17/17
	N/W	16.5/16.5	16.5/16.5	16.5/16.5	16.5/16.5	16.5/16.5	16.5/16.5
Escondido Telephone Co. 619-741-5580	D	35/21	42/26	42/26	32/27	34/30	37/31
	E	29/19	33/21	33/21	25/18	27/19	33/21
	N/W	20/12	24/15	24/15	17/13	20/14	23/15
Express Tel 619-569-0300	D	38/22	40/25	41/26	30/27	33/31	36/32
	E	33/19	34/22	35/22	21/17	23/19	25/20
	N/W	24/14	26/16	26/17	16/13	17/14	19/15
ITT 800-526-3000	D	32/24	33/28	35/30	33/28	36/31	39/32
	E	19/15	20/17	21/18	20/17	21/19	23/20
	N/W	14/11	14/13	15/14	14/13	16/14	17/15
MCI 800-624-2222	D	39/23	41/26	42/27	28/25	32/30	34/31
	E	31/19	33/21	34/22	16/15	20/19	22/19
	N/W	22/13	23/15	24/15	13/12	14/14	15/15
TMC of San Diego 619-237-3800	D	29/29	35/35	35/35	30/30	35/35	36/36
	E	17/17	22/22	22/22	17/17	20/20	21/21
	N/W	12/12	16/16	16/16	13/13	16/16	16/16
U.S. Sprint 800-521-4949	D	43/33	47/36	51/38	28/28	33/30	36/32
	E	26/19	30/22	31/22	17/17	21/19	23/20
	N/W	17/13	19/15	20/15	11/11	16/14	17/15
Western Union ** 800-562-0240	D	41/26	46/29	47/30	46/29	48/30	53/33
	E	24/17	27/19	28/20	27/19	29/20	32/22
	N/W	18/13	21/15	22/16	21/15	22/16	24/18

*Com Systems' rates represent reduced sale prices which are guaranteed for 1 year for new customers who sign up before June 30, 1987. Current Com Systems customers should call for details. **Western Union's rates become effective March 16.

Credit, Labor Unions Offer Credit Cards

If you belong to a credit union, check to see if it offers a credit card for which you can qualify. Credit union credit cards usually have rates significantly lower than larger financial institutions. Also consider taking out a low-interest rate personal loan to pay off a higher-interest rate credit card.

If you are a member of the AFL-CIO, you may qualify for a credit card through the Bank of New York which has a variable interest rate as low as five points over the prime rate (currently 7.5%) and requires no annual fee. Contact your local union for details.

COST COMPARISONS

SEE ARTICLE ABOVE
TO UNDERSTAND RANKINGS

Daytime Calling Pattern

(8 a.m.-5 p.m. Mon.-Fri.)

Com Systems	15.33
Western Union	20.13
MCI	22.68
Escondido Telephone	22.76
Express Tel	22.78
TMC	23.02
ITT	23.54
AT&T	24.17
Allnet	25.00
U.S. Sprint	26.84

Evening Calling Pattern

(5 p.m.-11 p.m. Mon.-Fri.)

Com Systems	33.13
ITT	35.52
Western Union	36.36
TMC	37.58
MCI	38.58
AT&T	40.14
US Sprint	40.34
Express Tel	40.83
Allnet	40.95
Escondido Telephone	41.67

Night/Weekend Calling Pattern

(11 p.m.-8 a.m. Mon.-Fri., all day Sat. & Sun. Some companies use evening rates on Sun., 5-11 p.m.)

ITT	25.90
US Sprint	27.07
TMC	27.16
MCI	27.46
Escondido Telephone	28.17
Allnet	28.22
AT&T	28.27
Express Tel	28.65
Com Systems	29.21
Western Union	30.01

*Com Systems' rates represent reduced sale prices which are guaranteed for 1 year for new customers who sign up before June 30, 1987. Current Com Systems customers should call for details.

**Western Union's rates become effective March 16.

STATE OF NEW YORK

11918

IN ASSEMBLY

July 11, 1988

Introduced by COMMITTEE ON RULES -- (at request of M. of A. Nadler, Farrell, Sanders, Clark) -- read once and referred to the Committee on Corporations, Authorities and Commissions

AN ACT creating the New York Financial Consumers' Association, Incorporated

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The New York Financial Consumers' Association Act is hereby enacted to read as follows:

NEW YORK FINANCIAL CONSUMERS' ASSOCIATION ACT

Section. 1. Short title.
2. Legislative findings and intent.
3. Definitions.
4. Establishment and membership of the association.
5. Duties and powers of the association.
6. Board of directors.
7. Election of directors.
8. Notice insert.
9. Interim board of directors.
10. Penalties.
11. Relationship to existing law.
12. Severability.

Section 1. Short title. This act may be cited as the "New York Financial Consumers' Association Act".

§ 2. Legislative findings and intent. (a) The legislature finds that financial service products are growing more complex, diversified, and difficult for consumers to understand; further, that the deregulated financial service industry promotes product diversification, which in turn requires that consumers be kept fully informed and apprised of marketplace changes, in order to effectively and efficiently compare products and services. The free flow of accurate information will

EXPLANATION--Matter in *italics* (underscored) is new; matter in brackets [ ] is old law to be omitted.

LBD15206-02-8

promote competition, and competition in the marketplace will result in improved consumer services.

(b) the legislature further finds and declares that there is a need for an independent, consumer-oriented, public interest advocacy group with specific expertise in the financial services area. The complexity of financial regulatory issues virtually precludes citizen participation. Further, it is both necessary and appropriate for consumer, minority, local community, and broad public interest viewpoints to be voiced, and for government to consider these interests in its decision-making process.

(c) The legislature further finds and declares that technological changes in the financial service industry have been far-reaching, and sweeping innovations are likely to continue. It is the goal of the legislature to insure that change does not create a barrier that impedes access to financial services by the elderly, less-educated, low and moderate income, and minority consumers. Access to financial services, consumer protection, financial opportunity, and reinvestment in the community are appropriate underpinnings for state regulatory policy.

(d) The legislature concludes that, to further the stated purposes herein, it is necessary to establish a public purpose, not-for-profit, democratically controlled, incorporated membership association of financial service consumers, to be known as the New York Finanical Consumers's Association, Incorporated, hereinafter referred to as the association.

Further, to insure that consumers are given ample notice and opportunity to participate in such an association, the legislature has prescribed an efficient, orderly, and inobtrusive means of communicating to consumers the creation of such an association through a brief notice insert.

(e) The legislature intends this act to be a broad consumer-protection measure that does not involve regulation of banking practices; and, as such, the provisions of this act shall be applicable to federally chartered, as well as state chartered, depository institutions doing business in this state.

§ 3. Definitions. As used hereinafter in this act:

(a) The term "association" shall mean the New York Financial Consumers' Association, Incorporated established pursuant to section four of this act.

(b) The term "finanical service" shall be construed broadly and shall include any financial service, any financial service delivery system, and any activity closely related to or functionally similar to a financial service. The term shall include, but not be limited to, each of the following: payment or transfer of funds; acceptance of deposits; credit extension; credit reporting; securities activities; insurance activities; investment or management of funds; investment advice; and financial counselling.

(c) The term "consumer" shall mean a natural person who uses a financial service primarily for personal, family or household purposes.

(d) The term "interest of consumer" shall mean the interests of consumers in financial service matters, as individual consumers, collectively in terms of local community needs, or as reflected in broad public interests.

(e) The term "financial service provider" shall mean any corporation, unincorporated business, association, or government agency that provides a financial service.

(f) The term "member" shall mean any person who meets the requirements for membership in the association set forth in section four of this act.

(g) The term "association director" or "director" shall mean any person duly elected or appointed to the association's board of directors pursuant to section six or seven of this act.

(h) The term "election district" shall mean an area designated pursuant to subdivision (c) of section six of this act.

(i) The term "campaign contribution" shall mean any money, goods, service, credit, or other benefit provided or promised for the purpose of electing a candidate to the board of directors of the association.

(j) The term "campaign expenditure" shall mean any payment, use, distribution, or gift of money or anything of value made or promised for the purpose of electing a candidate to the board of directors of the association.

§ 4. Establishment and membership of the association. (a) There is hereby created a public purpose, democratically controlled, incorporated membership association of financial service consumers, to be known as the New York Financial Consumers' Association, Incorporated.

(b) The association shall be a not-for-profit corporation, as defined in section one hundred two of the not-for-profit corporation law and shall be a "Type B" corporation as defined in section two hundred one of such law.

(c) The membership of the association shall consist of all natural persons who are eighteen years of age or older, residents of this state, and have contributed to the association the required annual membership fee.

(d) Until one hundred eighty days after the association's first election of directors, the association's annual membership fee shall be five dollars. Thereafter, the association may, by vote of its board of directors, alter the annual membership fee, and such alteration may include a sliding fee structure related to a member's income.

(e) The association shall not be deemed an agency or department of the state government.

(f) Whenever the association has been incorporated for a period of three years, and subsequent to such period the association's membership remains below five hundred members for the entire year, the board of directors of the association shall dissolve the association.

§ 5. Duties and powers of the association. (a) The association shall have the following charter duties, and all actions by the association shall be directed toward these duties:

(1) to inform, educate, and advise consumers and others on financial service matters;

(2) to represent and promote the interests of consumers in financial service matters as individual consumers and collectively in terms of local community needs and broad public interest;

(3) to take affirmative measures to encourage membership by low and moderate income and minority consumers, to disseminate information and advice to such consumers, and to represent their interest in financial service matters; and

(4) to inform, insofar as possible, financial service consumers about the association, including the procedures for obtaining membership in the association.

(b) The association shall have, in addition to the rights and powers provided by other provisions of this act, the following rights and powers:

(1) to represent the interests of consumers in financial service matters before regulatory agencies, legislative bodies, and other public forums;

(2) to initiate, to intervene as a party, or otherwise participate on behalf of financial service consumers in any regulatory proceeding which the association reasonably determines may affect the interests of financial service consumers;

(3) to sue on behalf of any member, group of members or all members for judicial relief, including damages, in any court of competent jurisdiction in regard to any financial service matter;

(4) to represent the interest of financial service consumers in the resolution of complaints involving a financial service provider;

(5) to negotiate on behalf of financial service consumers with financial service providers;

(6) to represent the interests of associations, unincorporated businesses, and corporations in financial service matters before regulatory agencies, legislative bodies, and other public forums where such representation is in the interests of consumers;

(7) to conduct, support, and assist research, surveys, and investigations in financial service matters; and

(8) to contract for services which cannot reasonably be performed by its employees.

(c) The association shall, to the extent consistent with the requirements of this act, have all rights and powers generally accorded and be subject to all duties generally imposed upon not-for-profit corporations by the laws of this state.

(d) The association shall be deemed to have an interest sufficient to obtain judicial review or enforcement in any court of competent jurisdiction of any regulatory decision or other regulatory action which the association reasonably determines may affect the interests of consumers in financial service matters.

(e) The association shall provide any association member access to association mailings to members for the purpose of distributing communications concerning the association, but shall not disclose the identity of association members.

(f) The association shall make available to the public any of the following documents prepared by or filed with the association within the preceding seven years: minutes of the board of directors meetings; directors' or executive directors' financial statements; candidates' financial statements; candidates' statements; quarterly statements and annual reports of the association.

(g) The association shall not make any contributions to any political party or candidate and shall not endorse or oppose any political party or any candidate for any elected public or party office. This restriction shall apply to all partisan processes.

§ 6. Board of directors. (a) The affairs of the association shall be managed by a board of directors which shall be elected by the members of the association.

(b) One director shall be elected from each association election district; provided, however, that no director shall be elected from an election district in which sixty days prior to a scheduled election there are less than fifty residents who are association members or in which there is no candidate for election to the board of directors who has satisfied the qualification requirements of section seven of this act. In the event that this subdivision precludes the election of a director from an election district, the members of such election district may vote in the director election of another election district, which shall be designated by a two-thirds vote of the association's board of directors.

(c) Association election districts shall be established as follows:

(1) An association election district shall be an area comprised of two contiguous congressional districts, as such congressional districts are described in section three of the state law.

(2) The interim board of directors shall establish the association's election districts no less than sixty days prior to the first general election of directors.

(3) In the event that there are an odd number of congressional districts in the state, the unpaired congressional district shall be divided into portions of approximately equal population with the number of portions determined by the number of association election districts that are contiguous to the unpaired congressional district. Each portion of the unpaired congressional district shall be incorporated into the association election district to which it is contiguous.

(4) In the event that the number or boundaries of congressional districts in the state are adjusted, the association's board of directors shall, consistent with the requirements of this subdivision, promptly redesignate the association's election districts.

(d) Each director shall have one vote on the board of directors.

(e) (1) The term of office for a director shall be three years, except as provided otherwise by this act; and no director shall service more than two full three year terms.

(2) The terms of directors shall be staggered so that approximately one-third of the directors are elected each year.

(3) The first elected board of directors shall draw lots to determine which of the initial elected directors shall serve one, two, and three year terms in order to satisfy the staggered term requirement.

(f) In the event that a director position becomes vacant, the board of directors shall, by vote of no less than two-thirds of all directors, appoint within ninety days a successor director from the same election district to serve for the remainder of the vacating director's term.

(g) (1) In the event that the boundaries of an election district are redesignated pursuant to paragraph four of subdivision (c) of this section, a director election for such election district shall take place during the next regularly scheduled annual election of association directors.

(2) In the event that a director representing an election district which has been redesignated pursuant to paragraph four of subdivision (c) of this section has a term of office that extends beyond the completion of the director election required by paragraph one of this subdivision, the director shall resign upon the completion of such election.

(3) A director resigning pursuant to paragraph two of this subdivision may be elected as a new director, provided that he or she satisfies the director eligibility requirements of subdivision (b) of section seven of this act.

(4) The board of directors shall by lottery assign one, two, or three year terms to new directors elected under this subdivision as necessary to satisfy the staggered term requirement of subdivision (e) of this section.

(h) A director shall be removed from the board of directors whenever at least forty percent of the members from the director's election district who voted in the last election have signed a petition for recall.

(i) The board of directors shall, in addition to its other duties:

(1) conduct meetings of the board of directors at least once every three months, which meetings shall be open to the public, unless the board of directors by a two-thirds majority vote to adjourn into executive session. The only matters which shall be discussed in executive session are personnel actions, potential or pending civil or criminal proceedings involving the association, and material which would result in an unwarranted invasion of personal privacy if discussed in open session;

(2) oversee the annual election of directors and tally the votes;

(3) conduct an annual membership meeting;

(4) keep minutes, financial records, and other records which shall reflect the acts and transactions of the board of directors;

(5) cause the association's financial books to be audited by a qualified certified public accountant at least once each fiscal year;

(6) prepare quarterly statements and an annual report indicating the substantive activities and financial operations of the association; and

(7) adopt by-laws of the association consistent with the requirements of this act.

(j) To the extent consistent with the requirements of this act, the board of directors shall have all rights and powers generally accorded and be subject to all duties generally imposed upon the board of directors of not-for-profit corporations by the laws of this state.

(k) The directors shall serve without compensation, but each director may be reimbursed for actual, reasonable, and necessary expenses incurred in the performance of his or her duty.

(l) The board of directors shall hire and supervise an executive director for the association. The executive director shall implement the policies established by the board of directors, employ and discharge association employees, and manage the offices, facilities, and employees of the association. Any applicant for the position of executive director and each executive director shall satisfy the requirements for director eligibility established by subdivisions (m), (n), and (o) of section seven of this act.

(m) Any director or staff persons eligible to receive, handle, or disburse funds on behalf of the association shall be bonded. The cost of such bonds shall be paid for by the association.

(n) Each director and the executive director shall file annually with the board of directors, and make available upon request to the public, a director's financial statement which shall include the same information required in a candidate's financial statement by subdivision (f) of section seven of this act.

§ 7. Election of directors. (a) Each member of the association shall be entitled to cast one vote in each director election in the member's election district for a candidate for director qualified under this section to represent such district. Voting shall be by secret mail ballot.

(b) To qualify for nomination as a candidate for election to the board of directors a person must:

(1) be a member of the association and a resident of the election district which he or she seeks to represent;

(2) submit to the association, no less than sixty days and no more than one hundred twenty days prior to the election, a nomination petition signed by at least thirty-five association members from the election district which he or she seeks to represent;

(3) submit to the association the statements required by subdivisions (e) and (f) of this section; and

(4) satisfy all other requirements of this act and any applicable by-laws of the association.

(c) The board of directors shall certify as a duly nominated candidate for election to the board of directors each person who has qualified under subdivision (b) of this section.

(d) The association shall mail to each member the following documents concerning duly nominated candidates for election to the board of directors:

(1) an official ballot listing all such candidates in the member's election district;

(2) the candidate's statement required by subdivision (e) of this section for each such candidate in the member's election district; and

(3) a board of directors' summary of the duly nominated candidates either for all such candidates in all election districts or for only such candidates in the member's election district.

The board of directors' summary shall have a uniform format and shall provide comparable information for each candidate. The costs for all mailings described in this subdivision shall be borne by the association.

(e) Any person seeking nomination as a candidate for election to the board of directors shall file with the association, no less than sixty days and no more than one hundred twenty days prior to the election, a candidate's statement. The contents of a candidate's statement shall be within the discretion of the candidate, except that a candidate's statement may not contain false statements and the association may, by by-law or interim board of directors' procedure, impose a uniform limitation on the length of all candidate's statements.

(f) Any person seeking nomination as a candidate for election to the board of directors shall file with the association, no less than sixty days and no more one hundred twenty days prior to the election, a candidate's financial statement and shall affirm in writing, under penalty of perjury, that the information contained in the statement is true and complete. A candidate's financial statement shall be consistent with the disclosure requirements for statewide elected officials provided for in section seventy-three-a of the public officers law. The candidate's financial statement shall cover the one year preceding the board's election. Nothing in this section shall limit the board of directors' powers to require additional financial information through its by-laws.

(g) No candidate for election to the board of directors shall incur campaign expenditures for any such election in an amount greater than the number of members in the candidate's election district multiplied by one hundred fifty percent (times 1.5) of the cost of postage for a one-ounce first class mailing.

(h) No candidate for election to the board of directors may use any campaign contribution for any purpose other than campaign expenditures.

(i) No candidate for election to the board of directors shall accept more than two hundred fifty dollars in campaign contributions from any one contributor in any election.

(j) No candidate for election to the board of directors may accept campaign contributions from a financial service provider.

(k) Each candidate for election to the board of directors shall affirm in writing, under penalty of perjury, that he or she has complied with all the campaign contribution and campaign expenditure requirements of this act and any such by-laws of the association. Each candidate and each director shall furnish the board of directors with such information regarding campaign contributions and expenditures as the board may request.

(l) No interim director shall be eligible for election to the board of directors during the first election. The executive director and other association staff persons, including interim staff persons, shall not be eligible for election to the board of directors while serving as executive director or staff person.

(m) No present director, officer, or employee of a financial service provider, or person who owns common stock or other securities of financial service providers in an aggregate amount in excess of ten thousand dollars, or agent, consultant, attorney, or accountant for a financial service provider shall be eligible to be a director.

(n) No employee of any state or federal agency that regulates financial service providers shall be eligible to be a director.

(o) No director shall:

(1) hold any elective federal, state, or local office or be a candidate for such office; or

(2) be appointed to hold any federal, state, or local office, unless such appointee receives no compensation other than reimbursement of expenses.

(p) The interim board of directors and subsequently the elected board of directors shall define the term "financial service provider" for purposes of this section: Provided, however, that the definition shall include, at minimum, any depository institution, finance company, mortgage company, insurance company, securities firm, financial counselling company, and any affiliate or parent holding company thereof, and shall include financial service providers without regard to the location of their offices.

(q) The requirements of this section shall apply to the first election of directors conducted by the interim board of directors pursuant to section nine of this act as well as to all subsequent elections of directors.

(r) The first elected board of directors shall, consistent with the requirements of this act, propose by-laws for the nomination and election of directors, and such by-laws shall be approved by a majority vote of the members of the association.

§ 8. Notice insert. (a) For purposes of this section, the term "regulated financial institution doing business in this state" shall mean:

(1) a bank or trust company organized under article three of the banking law;

(2) a savings bank organized under article six of the banking law;

(3) a savings and loan association organized under article ten of the banking law;

(4) a credit union organized under article eleven of the banking law;

(5) a foreign banking corporation licensed pursuant to section twenty-six of the banking law;

(6) a national bank chartered under the National Bank Act of 1864 that maintains one or more offices in this state that accept federally insured deposits;

(7) a federal savings and loan association or federal savings bank chartered under the Home Owners' Loan Act of 1933 that maintains one or more offices in this state that accept federally insured deposits; or

(8) a federal credit union chartered pursuant to the Federal Credit Union Act of 1934 that maintains one or more offices in this state that accept federally insured deposits.

(b) For purposes of this section, the term "deposit account" shall mean:

(1) a deposit as defined in subsection (l) of section three of the Federal Deposit Insurance Act;

(2) a deposit, certificate, share, or other such account authorized pursuant to section five of the Home Owners' Loan Act of 1933 or eligible for insurance under section four hundred three of the National Housing Act;

(3) a member account as defined in section one hundred one of the Federal Credit Union Act or eligible for insurance under section two hundred one of the Federal Credit Union Act; or

(4) a deposit or share account insured pursuant to paragraph (d) of subdivision one of section thirty-two of the Banking Law.

(c) For purposes of this section, the term "deposit account statement" shall mean a statement that:

(1) indicates the balance on a deposit account;

(2) involves an outstanding deposit account contract between a regulated financial institution doing business in this state and a natural person; and

(3) is mailed or otherwise delivered to such person.

(d) For purposes of this section, the term "notice insert" shall mean:

(1) the following statement, except as provided in subsection (i):

"The New York Financial Consumers' Association, Incorporated (NYFCA) is a consumer membership organization created by the state of New York to inform and represent consumers in financial service matters.

NYFCA provides consumers with information and advice on a range of financial services, such as consumer loans, mortgage loans, credit cards, homeowner's insurance, auto insurance, life insurance, deposit accounts, investment funds, securities, and financial planning.

NYFCA also represents consumer, local community, and broad public interests in financial service issues before regulatory agencies and legislative bodies.

NYFCA is a democratically controlled, consumer membership organization. Consumer members elect its board of directors; and the board of directors controls its activities. NYFCA has seventeen directors. One director is elected from each of NYFCA's seventeen election districts. Each NYFCA election district is composed of two New York congressional districts.

Although NYFCA has been established by state law, as a consumer membership organization it is supported by membership fees, not state funds. Thus, NYFCA depends on its membership base for funding to undertake its information and representation activities.

Any resident of New York, eighteen years of age or older, is entitled to become a member of NYFCA by paying the annual membership fee. The fee is __________.

You may become a member simply by filling out the attached application and mailing it and the membership fee to NYFCA in the attached pre-addressed envelope."

(2) an application for association membership which requests the applicant's name and address and indicates the annual membership fee; and

(3) a pre-addressed, business reply envelope for mailing the application and membership fee to the association.

(e) The notice insert specified in subdivision (d) of this section shall be subject to the following requirements:

(1) The notice insert shall contain only the statement, application, and pre-addressed business reply envelope specified in subdivision (d) of this section.

(2) The statement, application, and pre-addressed business reply envelope shall be presented to the customer as a single document, although the document may be separable into different parts by tearing along perforated lines.

(3) The attorney general shall by regulation publish the association's annual membership fee determined pursuant to subdivision (d) of section four of this act. The annual membership fee published by the department of economic development shall be incorporated into the statement and application.

(4) The statement and application shall be printed in at least ten point type.

(5) The entire notice insert shall not weigh more than .35 ounces.

(f) For as long as the incorporated association remains in existence, a regulated financial institution doing business in this state shall include or cause its agent to include a notice insert in each mailing of a deposit account statement that it mails to an address located within this state; provided, however, that a regulated financial institution shall not be required by this act to include notice inserts in more than four deposit account statement mailings per calendar year for any deposit account; and

Provided, further, that for periodic statements provided on a monthly basis, the regulated financial institution shall include the notice inserts on a quarterly basis.

(g) A regulated financial institution shall take reasonable measures to confine notice inserts to deposit account statements which involve a natural person customer and be mailed to an address located within this state. However, if a regulated financial institution finds that the cost of targeting notice inserts in such manner is greater than the cost of including the notice inserts in deposit account statement mailings to a larger, more inclusive group of customers, the institution may provide the notice inserts to the larger group.

(h) Subdivision (f) of this section shall take effect upon the incorporation of the association pursuant to subdivision (f) of section nine of this act. The period between incorporation of the association and December thirty-first of such year shall be deemed to be a full calendar year for purposes of the limit on the number of required notice inserts set by subdivision (f) of this section.

(i) Prior to the first general election of the directors of the association pursuant to subdivision (i) of section nine of this act, the notice insert required by subdivision (f) of this section shall include the following statement in lieu of the statement specified by paragraph one of subdivision (d) of this section;

"The New York Financial Consumers' Association, Incorporated (NYFCA) is a consumer membership organization recently established by the New York state legislature to inform and represent consumers in financial service matters.

NYFCA will provide consumers with information and advice on a range of financial services, such as consumer loans, mortgage loans, credit cards, homeowners' insurance, auto insurance, life insurance, deposit accounts, investment funds, securities, and financial planning.

NYFCA will also represent consumer, local community, and broad public interest in financial service issues before regulatory agencies and legislative bodies.

NYFCA will be a democratically controlled, consumer membership organization. Consumer members will elect its board of directors; and the board of directors will control its activities. NYFCA will have seventeen elected directors. One director will be elected from each of NYFCA's seventeen election districts. Each NYFCA election district will be composed of two New York congressional districts.

The governor has recently appointed an interim board of directors to incorporate and manage NYFCA until the first election of directors occurs. Before the first election of directors can take place, NYFCA must have one hundred or more members from each of its seventeen election districts.

Although NYFCA has been established by state law, as a consumer membership organization it will be supported by membership fees, not state funds. Thus, NYFCA will depend on its membership base for funding to undertake its information and representation activities.

Any resident of New York, eighteen years of age or older, is entitled to become a member of NYFCA by paying the annual membership fee. The fee is five dollars.

You may become a member simply by filling out the attached application and mailing it and the membership fee to NYFCA in the attached pre-addressed envelope."

(j) The department of economic development shall promptly notify each regulated financial institution doing business in this state of the incorporation of the association and the consequent requirement to provide the notice insert specified by paragraphs two and three of subdivision (d) and subdivision (i) of this section.

(k) The department of economic development shall promptly notify each regulated financial institution doing business in this state of the first general election of directors of the association and the consequent requirement to provide the notice insert specified by subdivision (d) of this section.

§ 9. Interim board of directors. (a) Within ninety days of the effective date of this act, twelve interim directors shall be appointed to establish the association, four of whom shall be appointed by the governor, three of whom shall be appointed by the temporary president of the senate, three of whom shall be appointed by the speaker of the assembly, one of whom shall be appointed by the minority leader of the senate and one of whom shall be appointed by the minority leader of the assembly.

(b) The twelve interim directors shall be broadly representative of each of the following categories of organizations: consumer; labor; civil rights; neighborhood or community; elderly; and organizations representing lower income persons, including legal service organizations.

(c) To qualify for nomination or appointment as an interim director representing a category of organizations pursuant to this section, a person must:

(1) currently be an officer, employee, or member of an organization within such category; or

(2) previously have been an officer or employee of one or more organizations within such category for a cumulative period of a least two years.

(d) Interim directors shall be subject to the requirements of subdivisions (k), (m), and (n) of section six of this act and subdivisions (m), (n) and (o) of section seven of this act.

(e) The interim board of directors shall perform the following duties:

(1) within sixty days of appointment incorporate the association;

(2) manage the affairs of the association until the first elected board of directors takes office;

(3) inform the residents of the state of the existence, nature, and purpose of the association, and encourage such persons to join the association, participate in its activities, and contribute to the association;

(4) establish the association's election districts pursuant to subdivision (c) of section six of this act;

(5) adopt procedures and standards, consistent with the requirements of this act, for the nomination and election of the association's first elected directors;

(6) make all necessary preparations for the association's first election of directors, oversee the election campaign, conduct the election as provided by subdivision (h) of this section, and tally the votes;

(7) conduct meetings of the interim board of directors at least once every three months, which shall comply with the open meeting requirement of subdivision (h) of section six of this act;

(8) employ such interim staff as the interim directors deem necessary to carry out the purposes of this act;

(9) keep minutes, financial books, and records which shall reflect the acts and transactions of the interim board of directors.

(f) The interim board of directors shall, to the extent necessary to execute its duties under subdivision (e) of this section and to satisfy all other requirements of this act, have all rights and powers generally accorded and be subject to all duties generally imposed upon the boards of directors of not-for-profit corporations by the laws of this state.

(g) The interim board of directors shall not engage in representation or intervention on behalf of consumers or others before any regulatory, legislative, judicial, or other body, except to the extent necessary to maintain or exercise the powers granted and the duties imposed upon it by this act.

(h) The interim board of directors shall within eighteen months of the appointment of the last interim director set a date for the first general election of directors and shall promptly notify every member. The date set for the election shall be not more than ninety days after such notification; provided, however, that the election shall not take place unless there are at least one hundred residents of each election district who are association members.

§ 10. Penalties. A violation of any provision of section eight of this act by a regulated financial institution or officer, employee, or agent thereof shall be subject to a civil penalty of not more than ten thousand dollars for each violation.

§ 11. Relationship to existing law. Nothing in this act shall be construed to limit the right of any individual or group of individuals to initiate, intervene in, or otherwise participate in any proceeding before a regulatory agency or court or to relieve any regulatory agency, court, or other public body of any obligation, or affect its discretion, to permit intervention or participation by a consumer or group or class of consumers or citizens in any proceeding or activity.

§ 12. Severability. If any clause, sentence, paragraph, subdivision, section or part of this act shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part thereof directly involved in the controversy in which such judgment shall have been rendered. It is hereby declared to be the intent of the legislature that this act would have been enacted even if such invalid provisions had not been included herein.

§ 2. This act shall take effect immediately.

PUBLIC CITIZEN

Buyers Up □ Congress Watch □ Critical Mass □ Health Research Group □ Litigation Group

January 19, 1989

Hon. Donald Riegle
Chairman
Committee on Banking, Housing and Urban Affairs
U.S. Senate
534 SDOB
Washington, DC 20510

Dear Mr. Chairman:

Public Citizen, the national consumer advocacy organization, strongly supports the proposed creation of state Financial Consumers Associations (FCAs), which was the subject of hearings held by the committee in December. This proposal would rectify severe inadequacies in the information and representation currently available to consumers of financial services, without creating a new government bureaucracy.

Consumers face the increasingly difficult task of coping with the dizzying and complex financial marketplace. Consumer organizations, stretched to address many issues, frequently fail to amass the needed resources and expertise to provide necessary information and representation. Financial Consumers Associations would meet this need through voluntary, citizen-run consumer self-help. And they would surmount the traditional challenge of inadequate resources by notifying consumers through a state government insert in bank deposit statement envelopes. FCAs would educate consumers through price surveys and shoppers guides, develop expertise, and represent consumers before legislatures, agencies and the courts. Without imposing any new substantive obligations on banks or other financial institutions, FCAs could tangibly improve the quality of financial services for average citizens.

How great is the need for such information dissemination and advocacy? Is there, in fact, a dearth of consumer expertise? To answer this question, Public Citizen researcher Peter Meryash contacted key staff and legislators in four states: Michigan, Connecticut, Tennessee and Florida. (The results of his informal survey are attached.) In each state, several individuals involved with the state legislature confirmed that consumer representation and information is inadequate, and falls far short of the expertise and involvement of industry. This analysis, while not comprehensive, nonetheless shows the extent to which FCAs could enhance policymaking at the state level.

215 Pennsylvania Ave. SE □ Washington, DC 20003 □ (202) 546-4996

Public Citizen
FCAs
page two

Mr. Chairman, FCAs offer a chance to induce flexible consumer participation in financial services issues -- without creating a new government bureaucracy or imposing substantive requirements on banks or other institutions. In the 100th Congress, as part of the bank powers legislation, the Senate authorized state governments to create FCAs (by enabling them to impose insert requirements on federally chartered banks as well as state chartered banks). Public Citizen commends this provision, and strongly urges that it be passed once again in the new Congress. And we urge you to support the concept of Financial Consumers Associations as a low-cost, effective mechanism for consumer self-help.

Sincerely,

Michael Waldman
Legislative Director
Public Citizen's Congress Watch

encl.

To: COMMITTEE ON BANKING, HOUSING AND URBAN DEVELOPMENT

From: PETER MERYASH, RESEARCHER
PUBLIC CITIZEN'S CONGRESS WATCH

Re: CONSUMER REPRESENTATION AT THE STATE LEVEL:
AN INFORMAL SURVEY

JANUARY 19, 1989

In December, Public Citizen's Congress Watch contacted key personnel and lawmakers in state legislatures in four states. The conversations, summarized below, indicate the need for enhanced consumer involvement at the state level.

* Michigan -- According to Tony DeLuca, Clerk of the Corporations and Finance Committee of the Michigan House of Representatives, financial interests are represented far more heavily than consumers. "We held a public hearing on electronic banking, but nothing was done," he said. "It tended to bring the corporate people together, and so mostly lobbying firms were represented. Perhaps there isn't enough expertise among the consumer community." DeLuca added, "Our hearings don't tend to have a large attendance. Credit unions and the banks most often are represented, while consumers tend to call or write [representatives]."

Other staff said that while consumer representation is frequently adequate, sometimes it is unavailable. According to Brian Johnson, administrative assistant for the Michigan House's Insurance Committee, the panel solicits consumer input when there is time for careful legislative study. When "the train is moving fast," however, it is difficult and unlikely to find similar consumer participation. Johnson added that the "greatest need in terms of informing consumers is a sophisticated system for the distribution of information."

* Connecticut -- Staff in the Connecticut legislature report that while consumers are occasionally represented, they are not nearly as prevalent as representatives of financial services industries. According to Mary Ellen Shea, clerk of the combined Banks Committee (of both legislative houses), "We're a small committee and there isn't a great amount of input from either side [industry or consumer], but the input we get is mostly from lobbyists for the industry." State Representative George Jensen, a member of the Banks Committee until this session, and currently a member of the Insurance Committee, confirmed the relative lack of consumer input, although he praised the impact of the Legislative Education and Action Program, a coalition of consumer and other groups. He suggested that the complexity and technicality of many financial

services issues might deter most consumer groups from participating in policy formulation. Another committee staff member associated with financial services issues noted that the committee staffs regularly bemoan the lack of consumer presence; especially felt was the lack of policy suggestions from consumer experts.

Rep. Edith Prague, a member of the Insurance Committee, was emphatic. "There is definitely a need for more consumer input; consumer groups don't testify nearly as much as industry," she said. "Consumers in Connecticut are complaining bitterly about the high costs of insurance and the rising rates. But there aren't that many consumer groups with the resources and the leadership. . . . Input from consumer groups isn't solicited as much as the input from industry."

Rep. Gabe Biafore, Co-Chair of the Insurance Committee, expressed a similar view:

> "We get input from all sides, pretty well-rounded. The industry makes sure that the Committee hears their side, and consumer groups have a good amount of input too on the bigger issues that affect them, especially automobile coverage. Unfortunately, the consumer groups aren't as well organized or as well-funded as the industry groups, but consumer advocates try their best to provide adequate information. On some of the issues which don't have a broad consumer-based interest, I think it could be helful to have a better funded consumer organization. When the effects are broad-based like auto insurance, which will interest people from all economic sectors, it's easier to have input."

* Tennessee -- Similar responses were received from staff members in Tennessee. The State Senate Commerce Committee, for example, recently addressed legislation to expand the powers of banks in securities and credit, to cap credit card interest rates at 21 percent, and to mandate uniform credit card application processes. According to Waller Henry, a research analyst for the committee, "There was a certain amount of consumer input on these issues, but consumers did not have as much input as they could have. More input from consumers is needed; the information we do get is usually relevant and helpful. . . . Perhaps they don't have the expertise and the organization, but we need more."

Rep. Ben West, Secretary of the State House Commerce Committee, noted that several consumer groups are active, particularly in the credit card area. "I believe strongly in getting consumer information - whether it's written or verbal testimony," he said. "But overall, there isn't as much consumer input as I would like. As far as that is concerned, we could use more."

* Florida -- The Florida Senate Commerce Committee (recently divided into three separate committees) had been a forum for several controversial issues affecting consumers, including tort reform, insurance, and expanded bank powers. Pamela Burch Fort, the committee's staff director, said that the panel had sought to reach out for consumer representation through staff seminars and wide dissemination of hearing notices. In addition, she praised the advocacy role of the American Association of Retired Persons (AARP) and Florida Public Interest Research Group (FPIRG). However, she found the area of consumer information dissemination far less developed. "I can't say that we've been totally successful in educating the public about developments in financial services," she said. "And consumer groups don't always have the resources available to them for that."

The Florida House of Representatives staff with whom Public Citizen spoke reported less consumer involvement. Fred Varn, the staff director of the House Commerce Committee, asserted that consumer advocacy has been minimal, but attributed it to the nature of the issues. He noted that few financial services issues had been debated before the committee at all. Rather, its efforts focused on interstate banking and other bank powers issues. "The lobbying that was done on the interstate banking issue came from Chemical Bank on one side and the Florida Bankers' Association on the other. Otherwise, there was no consumer input," he said. "I wouldn't be opposed to consumer input, but the average consumer doesn't really care, or understand, issues of interstate banking."

The staff director of the Insurance Committee, Bill Leary, similarly reported a dearth of consumer input (despite the committee's work on motor vehicle insurance, health care and medical malpractice). "Surprisingly, our committee gets very little input from consumer groups on any of our issues," he said. "As far as the car insurance issue, the members received alot of constituent mail and knew that their constituents were angry, but there weren't any consumer groups up here presenting their cases." He recounted his recent experience with changes in health care law to give greater protections to persons needing long term care (e.g., limiting deceptive advertising): "I anticipated that consumer and elderly groups would be very active on the issue. But there was virtually no input. I had even reserved a large room for the hearings, but consumer representatives surprisingly didn't come."

SEC. 913. FINANCIAL CONSUMERS ASSOCIATIONS.

(a) NATIONAL BANKS.—Whenever a State has by statute established a consumer membership organization subject to a statutory charter mandate to inform and represent consumers in the financial service area and subject to statutorily prescribed democratic rules of governance and such State has also required State chartered insured banks, as defined in section 3 of the Federal Deposit Insurance Act, to include in their deposit account statement mailings to consumers a statutorily prescribed insert concerning the consumer membership organization, national banks shall comply with the insert requirements.

(b) SAVINGS AND LOAN ASSOCIATIONS.—Section 5 of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464) is amended by adding the following new subsection:

"(t) FINANCIAL CONSUMERS ASSOCIATIONS.—Whenever a State has by statute established a consumer membership organization subject to a statutory charter mandate to inform and represent consumers in the financial service area and subject to statutorily prescribed democratic rules of governance and such State has also required State chartered insured institutions as defined in section 401 of the National Housing Act to include in their deposit account statement mailings to consumers a statutorily prescribed insert concerning the consumer membership organization, associations, as defined in subsection (d), shall comply with the insert requirement.".

(c) CREDIT UNIONS.—Title I of the Federal Credit Union Act (12 U.S.C. 1751 et seq.) is amended by adding the following new section:

"FINANCIAL CONSUMERS ASSOCIATIONS

"SEC. 130. Whenever a State has by statute established a consumer membership organization subject to a statutory charter mandate to inform and represent consumers in the financial service area and subject to statutorily prescribed democratic rules of governance and such State has also required State chartered insured credit unions as defined in section 101(7) of this Act to include in their deposit account statement mailings to consumers a statutorily prescribed insert concerning the consumer membership organization, Federal credit unions shall comply with the insert requirement.".

THE ASSEMBLY
STATE OF NEW YORK
ALBANY

JERROLD NADLER
67th Assembly District

Reply To
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CHAIRMAN
Consumer Affairs and Protectio

COMMITTEES
Judiciary
Corporations, Authorities
and Commissions
Ways and Means
Election Law

June 22, 1988

Honorable Fernand J. St. Germain
Chairman
Committee on Banking, Finance,
and Urban Affairs
U.S. House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

I urge that the broad banking legislation currently before the House Banking Committee contain a provision that would clarify the authority of state legislatures to require depository institutions--federally chartered, as well as state chartered--to include in their deposit account mailings to consumers a statutorily prescribed notice concerning a state authorized financial consumers' association. The banking bill recently passed by the Senate contains such a provision--Section 913 of S.1886. It is important for the House of Representatives to show similar support so that this important provision will be in a strong position in the House-Senate Conference.

Earlier this month I introduced legislation, which I expect to be in print shortly, that would establish a New York financial consumers' association. The association would be a consumer membership organization, democratically controlled by its members and funded by membership contributions. Its function would be to provide information to New York consumers on financial service products and represent their interests in financial service matters in legislative, administrative, and, if necessary, judicial proceedings.

Most salient for purposes of this communication, the legislation I have introduced would require all depository institutions with banking offices in New York State to insert four times per year in their deposit account statement mailings to New York consumers a notice concerning the nature and purpose of the association. The legislation prescribes the exact language of this required notice. I should point out that the legislation draws heavily on concepts in the excellent financial consumers' association bill, Title III of H.R. 4026, introduced earlier this year by New York Congressman Charles E. Schumer, which would authorize under federal law the establishment of a financial consumers' association in each state.

A provision in federal banking law expressly recognizing that a notice insert requirement in state financial consumers' association legislation would apply to federally chartered depository institutions would be very helpful because the authority of state legislatures to impose consumer protection provisions on federal savings banks and federal savings and loans has been a contentious issue. For example, federal savings banks and federal S&Ls have refused to comply with New York laws requiring depository institutions to pay interest on mortgage escrow accounts (1979) and limiting check hold periods (1984). While it is our position that a financial consumers' association notice insert requirement does not entail direct regulation of bank services and is, therefore, not properly subject to federal preemption, incorporating into federal banking law an explicit non-preemption provision for such notices would be extremely helpful. First, it would facilitate enactment of state financial consumers' association legislation, since the opponents of such legislation could no longer raise the preemption issue. Second, once a financial consumers' association has been established, a non-preemption provision would avoid entanglement of the association and state officials in disputes and possible litigation concerning the applicability of the insert requirement to federally chartered institutions.

I believe that a financial consumers' association has a vital role to play in New York and other states. As financial service products become more complex and financial service providers become more aggressive in their marketing tactics, there is a mounting need for consumers to have an independent and trustworthy source of information and advice on financial services. It is axiomatic, but often overlooked in the current rush toward deregulation and new technology, that the market mechanism does not work efficiently if consumers are not well-informed.

Moreover, my experience in the New York Legislature convinces me that there is an important need to expand the resources available to represent consumer interests in the many financial service issues that come before state legislatures. While New York is one of the better states when it comes to the skills and resources of its consumer and local community organizations, all too often Assemblymembers and Senators working on financial service legislation have been unable to obtain analysis and comment from consumer and community organizations. The problem is that resource constraints limit the number of legislative issues that can be taken up by these organizations.

Establishing a New York financial consumers' association will help us develop a more informative legislative record on many important financial service issues.

I appreciate any support and assistance you can provide to insure that preemption does not become an excuse for federally chartered institutions to refuse to comply with this insert requirement.

Sincerely,

Jerrold Nadler

Jerrold Nadler
Member of Assembly

JLN:dj

NYPIRG

NEW YORK PUBLIC INTEREST RESEARCH GROUP, INC.

9 Murray Street • New York, NY 10007 • (212) 349-6460

Offices in: Albany, Binghamton, Buffalo, Cortland, Long Island, New Paltz, New York City, Purchase, Syracuse

July 7, 1988

Committee on Banking, Finance, and Urban Affairs
U.S. House of Representatives
Washington, DC 20515

Dear Banking Committee Member:

The New York Public Interest Research Group, Inc. (NYPIRG) urges the House Banking Committee to include a provision in the financial restructuring legislation currently under consideration which would remove a major obstacle to the creation of state financial consumers' associations.

In our view, state-authorized financial consumers' associations would be invaluable mechanisms for informing, advising, and representing consumers in today's rapidly changing and increasingly complex financial service marketplace. However, legislative initiatives to create these associations are clouded by the threat of federal preemption. NYPIRG supports a provision which would remove that threat by explicitly recognizing the authority of state legislatures to require federally chartered, as well as state chartered, banks to include statutorily prescribed notices about the financial consumers' association in their deposit account statement mailings to customers.

Federal preemption of ~~a state-based~~ financial consumers' association notice requirement could hurt financial consumers' associations in three ways. First and foremost, it would discourage state legislators and other state officials from endorsing financial consumers' association legislation because of their concern that state chartered depository institutions might switch to federal charters in order to circumvent the notice requirement. Second, once state legislation establishing a financial consumers' association is established, the state and the association will, in all likelihood, become entangled in litigation over the preemption issue. Third, to the extent that federal preemption claims are upheld, a significant number of depositors will not receive the notices.

NYPIRG has had firsthand experience with the manner in which the federal preemption issue can undercut a financial consumers' association initiative. In 1984 Governor Mario Cuomo gave a general endorsement to the concept of establishing a financial consumers' association in New York State and charged the New York State Banking Department with responsibility for developing a position on a specific bill. Unfortunately, the Banking Department interposed the preemption issue as a grounds for withholding support for a bill proposed by NYPIRG and other consumer organizations and did not develop an alternative version that it could support.

The New York Public Interest Research Group, Inc. (NYPIRG) is a not-for-profit, nonpartisan research and advocacy organization established, directed and supported by New York State college and university students. NYPIRG's staff of lawyers, researchers, scientists and organizers works with students and other citizens, developing citizenship skills and shaping public policy. Consumer protection, energy, fiscal responsibility, political reform and social justice are NYPIRG's principal areas of concern.

The Glass-Steagall legislation passed by the Senate in March of this year contains the needed provision to shield a financial consumers' association notice requirement from federal preemption claims. (See Section 913 of S. 1886.) The House Banking Committee should adopt a similar provision so that this key consumer objective will be well-positioned for House-Senate Conference.

At present, there is growing interest in the New York State legislature in an initiative to establish a New York financial consumers' association. Assemblyman Jerrold Nadler, Chairman of the Consumer Affairs and Protection Committee of the New York State Assembly, has recently introduced a financial consumers' association bill. Under this bill, the association would be a democratically controlled, self-funding, consumer membership organization operating under a set of rigorous, statutorily prescribed, democratic rules of governance. The bill prescribes a statutory notice informing consumers about the association and requires depository institutions doing business in New York State to insert this notice in some of their deposit account statement mailings to consumers.

Various financial restructuring initiatives at both the state and federal level have sparked considerable public debate over the appropriate role for state regulation of depository institutions and the desirable scope of federal preemption. While a measure of federal preemption is undoubtedly appropriate in regard to safety and soundness matters, we can see no legitimate federal interest in exempting federally chartered depository institutions from a state-based financial consumers' association notice requirement. In fact, in our view there is a clear federal interest in encouraging states to establish mechanisms, such as financial consumers' associations, to inform, advise, and represent financial service consumers. Accordingly, we hope that the pending federal banking legislation will be crafted to remove federal preemption as an obstacle to financial consumers' association legislation at the state level.

Sincerely,

Jay Halfon

Jay Halfon
NYPIRG Executive Director

THE MARYLAND ALLIANCE FOR RESPONSIBLE INVESTMENT
c/o MCAC • 2500 Charles St. • Baltimore, MD 21218
tel: 301-235-5588

July 11, 1988

The Honorable Fernand J. St Germain
Chairman
Committee on Banking, Finance and Urban Affairs
U.S. House of Representatives
Washington, DC 20515

Dear Mr. Chairman:

The Maryland Alliance for Responsible Investment was founded in 1986 to promote housing, economic development and socially-responsible banking practices in the state of Maryland. The Alliance has had considerable success with these goals, having utilized the Community Reinvestment Act of 1977 in negotiations with three banks, and assisted the Maryland State Legislature prior and during passage of a Maryland community reinvestment statute.

We strongly support your efforts to increase community reinvestment requirements for banks. We also believe it vital that so-called 'basic banking' services (such as government check-cashing and accounts for low-income customers) be mandated, given the many huge government benefits that banks receive through their public charters. Finally, it is imperative that consumer ombudsmen (also known as 'financial consumers' associations') be authorized to help protect consumers from banking practices not in the public interest. This means that states that wish to authorize such services be protected from federal preemption if the question of notice requirements for federally-chartered financial institutions arises.

Many members of our organization testified in Annapolis in favor of a financial consumers' association during the 1986 legislative session, representing organizations such as the AFL-CIO, the NAACP, and Maryland Citizens Action Coalition. Others testifying in favor of the bill included the speaker of the Maryland House of Delegates and representatives of Ralph Nader's Bank Watch, senior citizens' groups, Common Cause, the Maryland Savings and Loan Depositors Association, the Maryland Public Interest Research Group, and CongressWatch. The bill was very narrowly defeated, and we hope that questions that arose as to the appropriateness of state consumer protection from federally-regulated financial institutions can be put to rest this year.

It is therefore essential that the legislation your committee will consider in coming days and weeks contains language equivalent to that of the Senate bill (Section 913 of S.1886). We look forward to the inclusion of this language, and we applaud your efforts to serve the public interest during a period of increasing turmoil and instability in our nation's financial system.

Sincerely,

George Buntin, Jr.
President
The Maryland Alliance for Responsible Investment

HOUSE OF DELEGATES
ANNAPOLIS, MARYLAND 21401-1991

PETER FRANCHOT
20TH LEGISLATIVE DISTRICT
MONTGOMERY COUNTY
MEMBER
APPROPRIATIONS COMMITTEE

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(301) 270-4001

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ROOM 223A HOUSE OFFICE BUILDING
(301) 841-3046

TOLL FREE FROM WASHINGTON AREA
858-3046

July 8, 1988

Committee on Banking, Finance and Urban Affairs
U.S. House of Representatives
Washington, D.C. 20515

Dear House Banking Committee Member:

I urge the House Banking Committee to include in the omnibus banking legislation currently under consideration a provision that would expressly override a federal preemption claim that undercuts state legislative initiatives to establish financial consumers' associations.

Specifically, such a provision should make clear that in the event a state legislature establishes a financial consumers' association with a mandate to provide financial service information to consumers and to represent their interests in the financial service area, the state legislature shall have the authority to require federally and state chartered depository institutions to include in their deposit account mailings to consumers a notice concerning the association.

The securities powers legislation passed by the Senate in March contains the needed preemption override provision for financial consumers' associations: Section 913 of S. 1886. Such a provision is very important to the long-term interests of consumers and I hope that the House of Representatives will support a similar provision.

A growing number of state legislatures and consumer organizations have come to view the establishment of state-level financial consumers' associations as a necessary response to mounting consumer information and representation needs. Yet, needed state action is being inhibited by the prospect that federally chartered depository institutions might be exempt -- by virtue of federal preemption -- from a state requirement to provide consumers with a statutory notice concerning a financial consumers' association.

Many state legislators and state officials are reluctant to support the establishment of a financial consumers' association, if the notice requirement is only going to apply to state chartered institutions. The notice requirement is essential in order to build the necessary membership base to be successful.

Moreover, the negative impact of federal preemption does not stop with the chilling effect on the proposed financial consumers' association legislation. Once such legislation is enacted, some federally chartered institutions will inevitably contest the scope of the notice requirement and, in all likelihood, the state and the association will become entangled in litigation over this issue. Additionally, should a class of depository institutions, such as federal savings and loans, ultimately prevail in their preemption claim, then a significant number of depositors within the state would not receive the statutory notice.

Federally chartered depository institutions, especially national banks, have traditionally been subject to many state consumer protection laws. However, in recent years federal banking regulators and federally chartered institutions have become much more aggressive in asserting federal preemption claims. In fact, the Federal Home Loan Bank Board as gone so far as to adopt a regulation which asserts that the agency has "plenary and exclusive authority ... to regulate all aspects of the operations of Federal associations." 12 C.F.R. 545.2.

There may well be plausible arguments on behalf of federal preemption for federally chartered depository institutions in regard to some matters. But, no serious claim can be made that there is any federal interest in exempting federally chartered institutions from a notice requirement adopted to inform a state's consumers about a financial consumers' association. Such an association has a clear public interest character. It has been established by the state legislature to inform and represent consumers in financial service matters and is subject to a set of rigorous, democratic rules of governance.

Recent experience in Maryland demonstrates the importance of incorporating into federal banking law a provision that would expressly override preemption claims against a state established financial consumers' association notice requirement. In 1986, legislation to establish a Maryland financial consumers' association was introduced in the Maryland House of Delegates. The association would have been a democratically, self-funded, consumer membership organization and it would have had a charter mandate to inform and represent Maryland consumers in financial service matters. The bill was supported by a broad coalition of consumer, community, and civil rights organizations and it came within one vote of passage by the House Economic Matters Committee.

In 1987, I introduced a similar bill, a copy of which was printed in your Committee's recent hearings, Reform of the Nations's Banking and Financial Systems, Part 2 (Nov.- Dec. 1987) at pages 355-373. My legislation was clearly hindered by the concern that the Maryland legislature might lack authority to subject federally chartered depository institutions to the notice requirement. Maryland consumer organizations are still interested in financial consumers' association legislation and Congressional action to expressly remove the threat of federal preemption would provide an important boost to this initiative.

Consumers need more information and objective advice to cope with today's rapidly changing financial marketplace. I am confident that a consumer membership organization, which depends on its membership for funding, will provide a flexible and creative tool for disseminating quality information and advice to those who need it. I ask you to please help the states who wish to promote such organizations.

Sincerely,

Peter Franchot

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